

WSR 22-10-037
EXPEDITED RULES
LIQUOR AND CANNABIS
BOARD

[Filed April 27, 2022, 10:48 a.m.]

Title of Rule and Other Identifying Information: Title 314 WAC, Liquor and cannabis board. The Washington state liquor and cannabis board (WSLCB) is amending rule sections in Title 314 WAC to implement section 168 of 2SHB 1210 (chapter 16, Laws of 2022).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2022 regular session, the Washington state legislature passed 2SHB 1210 (chapter 16, Laws of 2022) on March 11, 2022. In passing this bill, the legislature found that the use of the term "marijuana" in the United States has discriminatory origins and should be replaced with the more scientifically accurate term "cannabis." For this reason, the bill replaces the term "marijuana" with the term "cannabis" throughout the RCW, including chapter 69.50 RCW, the Uniform Controlled Substances Act. The bill also replaces the term "marijuana" with "cannabis" throughout the rules of WSLCB in Title 314 WAC.

The purpose of this proposed expedited rule making is to replace every occurrence of the term "marijuana" with "cannabis" in rule throughout Title 314 WAC. No other changes are proposed.

Reasons Supporting Proposal: 2SHB 1210 (section 168, chapter 16, Laws of 2022), directs WSLCB to use expedited rule making under RCW 34.05.353 to replace the term "marijuana" with the term "cannabis" throughout Title 314 WAC.

Statutory Authority for Adoption: RCW 69.50.342.

Statute Being Implemented: 2SHB 1210 (section 168, chapter 16, Laws of 2022).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSLCB, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jeff Kildahl, Policy and Rules Coordinator, 1025 Union Avenue S.E., Olympia, WA 98501, 360-664-1781; Enforcement: Chandra Brady, Director of Enforcement and Education, 1025 Union Avenue S.E., Olympia, WA 98501, 360-664-1726.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: 2SHB 1210 (section 168, chapter 16, Laws of 2022), directs the WSLCB to use expedited rule making to replace the term "marijuana" with the term "cannabis" throughout Title 314 WAC.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jeff Kildahl, Policy and Rules Coordinator, WSLCB, 1025 Union Avenue S.E.,

Olympia, WA 98501, phone 360-664-1781, fax 360-664-9689, email
jeff.kildahl@lcb.wa.gov, AND RECEIVED BY July 1, 2022.

April 27, 2022
David Postman
Chair

OTS-3720.1

AMENDATORY SECTION (Amending WSR 19-03-061, filed 1/10/19, effective 8/1/19)

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

- Titles 9 and 9A RCW, the criminal code laws;
- Title 69 RCW, which outlines the laws regarding controlled substances; and
- Chapters 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) Allow any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

- (A) Alcohol service must be monitored by MAST servers;
- (B) Drinks must be served in unlabeled containers;
- (C) Entertainers may not advertise any alcohol brands or products;
- (D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under (~~twenty-one~~) 21 years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or allow others to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in the consumption of any type of (~~marijuana, usable marijuana~~) cannabis, useable cannabis, or (~~marijuana-infused~~) cannabis-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) Allow any person to consume any type of (~~marijuana, usable marijuana~~) cannabis, useable cannabis, or (~~marijuana-infused~~) cannabis-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(h) Allow any person consuming, or who has consumed on any part of the licensed premises, any type of (~~marijuana, usable marijuana~~) cannabis, useable cannabis, or (~~marijuana-infused~~) cannabis-infused products to remain on any part of the licensed premises; or

(i) Sell or serve liquor by means of drive-through service from pickup or pass-through windows.

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

See WAC 314-11-050 for further guidelines on prohibited conduct.

[Statutory Authority: RCW 66.08.030 and 66.24.360. WSR 19-03-061, § 314-11-015, filed 1/10/19, effective 8/1/19. Statutory Authority: RCW 66.08.030. WSR 14-02-002, § 314-11-015, filed 12/18/13, effective 1/18/14; WSR 11-22-035, § 314-11-015, filed 10/26/11, effective 11/26/11. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-11-015, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-015, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-015,

filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-015, filed 2/26/01, effective 3/29/01.]

OTS-3721.1

AMENDATORY SECTION (Amending WSR 16-19-002, filed 9/7/16, effective 10/8/16)

WAC 314-42-110 Brief adjudicative proceedings. The Administrative Procedure Act provides for brief adjudicative proceedings in RCW 34.05.482 through 34.05.494. The board will conduct brief adjudicative proceedings where it does not violate any provision of law and where protection of the public interest does not require the board to give notice and an opportunity to participate to persons other than the parties. If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

- (1) Liquor license suspensions due to nonpayment of spirits taxes per RCW 66.24.010;
- (2) Liquor license denials per WAC 314-07-065(2);
- (3) Liquor license denials per WAC 314-07-040;
- (4) Special occasion license application denials per WAC 314-07-040;
- (5) Special occasion license application denials per WAC 314-07-065(7);
- (6) MAST provider or trainer denials for noncompliance with a support order in accordance with RCW 66.20.085;
- (7) MAST provider denials or revocations per WAC 314-17-070;
- (8) Liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015;
- (9) One-time event denials for private clubs per WAC 314-40-080;
- (10) Banquet permit denials per WAC 314-18-030;
- (11) The restrictions recommended by the local authority on a nightclub license are denied per WAC 314-02-039 (a local authority may request a BAP);
- (12) The restrictions recommended by a local authority are approved per WAC 314-02-039 (an applicant for a nightclub license may request a BAP);
- (13) Liquor license suspensions due to noncompliance with a support order per RCW 66.24.010;
- (14) Liquor license suspensions due to noncompliance with RCW 74.08.580(2), electronic benefits cards, per RCW 66.24.013;
- (15) License suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630;
- (16) License suspension due to nonpayment of spirits distributor license fees per RCW 66.24.055;
- (17) Tobacco license denials per WAC 314-33-005;
- (18) ((~~Marijuana~~)) Cannabis license denials per WAC 314-55-050(2);

- (19) ((Marijuana)) Cannabis license denials per WAC 314-55-050(4);
- (20) ((Marijuana)) Cannabis license denials per WAC 314-55-050(8);
- (21) ((Marijuana)) Cannabis license denials per WAC 314-55-050(10);
- (22) ((Marijuana)) Cannabis license suspensions per WAC 314-55-050(11);
- (23) ((Marijuana)) Cannabis license denials per WAC 314-55-050(12);
- (24) ((Marijuana)) Cannabis license denials per WAC 314-55-050(13); and
- (25) ((Marijuana)) Cannabis excise tax payment waiver denials per WAC 314-55-089.

[Statutory Authority: RCW 69.50.342, 69.50.345, 69.50.535, and 2016 1st sp.s. c 36. WSR 16-19-002, § 314-42-110, filed 9/7/16, effective 10/8/16. Statutory Authority: RCW 66.08.030. WSR 14-12-102, § 314-42-110, filed 6/4/14, effective 7/5/14; WSR 12-24-032, § 314-42-110, filed 11/28/12, effective 12/29/12.]

AMENDATORY SECTION (Amending WSR 14-12-102, filed 6/4/14, effective 7/5/14)

- WAC 314-42-115 Preliminary record in brief adjudicative proceedings.** (1) The preliminary record with respect to a liquor license suspension due to nonpayment of spirits taxes in RCW 66.24.010 shall consist of:
- (a) All correspondence from department of revenue requesting missing taxes or reports; and
 - (b) Request from department of revenue to the liquor control board requesting suspension of the liquor license.
- (2) The preliminary record with respect to a liquor license intent to deny under WAC 314-07-065(2) where the applicant has failed to submit information or documentation shall consist of:
- (a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and
 - (b) A copy of the application report prepared by licensing division staff.
- (3) The preliminary record with respect to a liquor license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:
- (a) A copy of the application report prepared by licensing division staff;
 - (b) The personal/criminal history statement(s) submitted by the applicant;
 - (c) Any interoffice correspondence reporting criminal history of applicant(s); and
 - (d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.
- (4) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

- (a) A copy of the application report prepared by licensing division staff;
- (b) The personal/criminal history statement(s) submitted by the applicant(s);
- (c) Any interoffice correspondence reporting criminal history of applicant(s); and
- (d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.
- (5) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the application was objected to by the local authority wherein the event is scheduled (WAC 314-07-065(7)) shall consist of:
- (a) A copy of the special occasion license application and supporting materials;
- (b) A copy of the notice sent to the local authority by licensing division staff;
- (c) A copy of the objection received from the local authority; and
- (d) A copy of any correspondence from the applicant rebutting the objection from the local authority.
- (6) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for noncompliance with a support order in accordance with RCW 66.20.085 shall consist of:
- (a) A copy of the license suspension certification from the department of social and health services; and
- (b) A copy of all documents received from or on behalf of the permit holder rebutting the identification of the server, provider, or trainer.
- (7) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for failing to meet the criminal history standards outlined in WAC 314-07-070(1) shall consist of:
- (a) A copy of the personal/criminal history statement submitted by the applicant;
- (b) Any interoffice correspondence reporting criminal history of applicant; and
- (c) Copies of any correspondence submitted by the applicant, permit holder, provider or trainer explaining or rebutting the criminal history findings.
- (8) The preliminary record with respect to liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015 shall consist of:
- (a) Copies of any correspondence requesting missing taxes, fees, or penalties when identified after processing reporting form monthly; and
- (b) Copies of backup documentation including envelopes showing late filing, corrections on reporting form, and audit findings.
- (9) The preliminary record with respect to one-time event denials for private clubs in WAC 314-40-080 shall consist of:
- (a) A copy of the written request for a one-time event;
- (b) A copy of the written denial including the reason(s) for the denial; and
- (c) Copies of all correspondence.
- (10) The preliminary record with respect to banquet permit denials in WAC 314-18-030 shall consist of:
- (a) The application for a banquet permit;
- (b) A copy of the written denial including the reason(s) for denial; and

(c) All correspondence.

(11) The preliminary record with respect to denial of restrictions requested on a nightclub license by a local authority under the provisions in WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(12) The preliminary record with respect to licensing's approval of a request for restrictions on a nightclub license under the provisions of WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(13) The preliminary record with respect to a liquor license suspension due to noncompliance with a support order from the department of social and health services under RCW 66.24.010 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) A copy of the written liquor control board suspension order; and

(c) Copies of all correspondence.

(14) The preliminary record with respect to a liquor license suspension due to noncompliance with RCW 74.08.580, electronic benefits cards, per RCW 66.24.013 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) The complete investigation from department of social and health services to support the suspension;

(c) A copy of the written liquor control board suspension order; and

(d) Copies of all correspondence.

(15) The preliminary records with respect to liquor license suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630 shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(16) The preliminary records with respect to liquor license suspensions due to nonpayment of spirits distributor license fees per RCW 66.24.055 shall consist of:

(a) All correspondence requesting missing fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(17) The preliminary record with respect to tobacco license denials shall consist of:

(a) The license application from business license services;

- (b) The personal/criminal history statement submitted by the applicant;
- (c) The judicial information system criminal history and division recommendation;
- (d) The letter of denial from the liquor control board;
- (e) The notice of intent to deny statement to the applicant; and
- (f) All correspondence.
- (18) The preliminary record with respect to a ((marijuana)) cannabis license intent to deny due to failure or refusal to submit information per WAC 314-55-050(2) shall consist of:
- (a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and
- (b) A copy of the application report prepared by licensing division staff.
- (19) The preliminary record with respect to a ((marijuana)) cannabis license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-55-050(4) shall consist of:
- (a) A copy of the application report prepared by licensing division staff;
- (b) The personal/criminal history statement(s) submitted by the applicant;
- (c) Any communication from the Washington state patrol or Federal Bureau of Investigation pertaining to the criminal history of the applicant;
- (d) Any interoffice correspondence reporting criminal history of applicant(s); and
- (e) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.
- (20) The preliminary record with respect to a ((marijuana)) cannabis license intent to deny due to denial, suspension, or cancellation of a ((marijuana)) cannabis license in another jurisdiction per WAC 314-55-050(8) shall consist of:
- (a) A copy of the application report prepared by licensing division staff; and
- (b) Documentation from any other state or jurisdiction demonstrating the action taken against the applicant.
- (21) The preliminary record with respect to a ((marijuana)) cannabis license intent to deny due to proximity to the perimeter of entities listed in WAC 314-55-050(10) shall consist of:
- (a) A copy of the application report prepared by licensing division staff;
- (b) Any interoffice correspondence reporting the measurement from the proposed business location to the facility within ((~~one thousand~~)) 1,000 feet;
- (c) Documentation of measurement data including Geographic Positioning System (GPS) and related calculations; and
- (d) Correspondence from the applicant illustrating alternative measurement data and/or rebuttal of the LCB's measurement data.
- (22) The preliminary record with respect to a ((marijuana)) cannabis license intent to suspension due to nonpayment of ((marijuana)) cannabis excise taxes per WAC 314-55-050(11) shall consist of:
- (a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and
- (b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(23) The preliminary record with respect to a ((~~marijuana~~)) cannabis license intent to deny due to failure to submit an attestation concerning current tax obligations per WAC 314-55-050(12) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) All correspondence with the applicant related to the request for this information.

(24) The preliminary record with respect to a ((~~marijuana~~)) cannabis license intent to deny due to denial, suspension, or revocation of a liquor license per WAC 314-55-050(13) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from liquor control board records or any other state demonstrating the action taken against the applicant.

[Statutory Authority: RCW 66.08.030. WSR 14-12-102, § 314-42-115, filed 6/4/14, effective 7/5/14; WSR 12-24-032, § 314-42-115, filed 11/28/12, effective 12/29/12.]

OTS-3719.1

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-005 What is the purpose of this chapter? The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a ((~~marijuana~~)) cannabis license and the reporting requirements for a ((~~marijuana~~)) cannabis licensee.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-005, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-05-075, filed 2/17/21, effective 3/20/21)

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 "((~~marijuana~~)) cannabis license applicant" means any person or business entity who is considered by the WSLCB as a true party of interest in a ((~~marijuana~~)) 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 ((~~marijuana-infused~~)) cannabis-infused product containing material from one or more lots of ((~~marijuana~~)) cannabis.

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

(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.

(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 (~~twenty-four~~) 24 hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(6) "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).

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

(8) "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.

(9) "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.

(10) "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.

(11) "End product" means a (~~marijuana~~) cannabis product that requires no further processing prior to retail sale.

(12) "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.

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

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

(15) "Immature plant or clone" means a (~~marijuana~~) cannabis plant or clone that has no flowers, is less than (~~twelve~~) 12 inches in height, and is less than (~~twelve~~) 12 inches in diameter.

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

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

(18) "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 ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, or ((marijuana-infused)) cannabis-infused products shall be considered an extension of the licensed premises.

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

(20) "Lot" means either of the following:

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

(21) "Lozenge" means a ~~((marijuana-infused))~~ 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.

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

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

(25) "~~((Marijuana))~~ Cannabis mix packaged" or "mix packaged" means an end product containing only ~~((marijuana))~~ 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 ~~((r))~~ 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.

(27) "Paraphernalia" means items used for the storage or use of useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, or ((marijuana-infused)) 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 ~~((marijuana))~~ cannabis, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

(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.

(29) "Perimeter" means a property line that encloses an area.

(30) "Plant" means a (~~marijuana~~) cannabis plant.

(31) "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.

(32) "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.

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

(34) "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.

(35) "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.

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

(37) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(38) "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 (~~twelve~~) 12 and recognized by the Washington state superintendent of public instruction.

(39) "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 WSLCB. For purposes of this subsection:

(a) "Product" means (~~marijuana, marijuana~~) cannabis, cannabis concentrates, useable (~~marijuana~~) cannabis, or (~~marijuana-infused~~) 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.

(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.

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

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

[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.]

AMENDATORY SECTION (Amending WSR 20-21-056, filed 10/14/20, effective 11/14/20)

WAC 314-55-013 Voluntary (~~(marijuana)~~) cannabis licensee consultation and education program. (1) **Purpose and scope.** The purpose of this section is to:

(a) Establish a program for (~~(marijuana)~~) cannabis licensee consultation and education visits consistent with the requirements of RCW 69.50.342(3) and 69.50.561;

(b) Establish criteria for the provision of advice, consultation, and education visits including, but not limited to, recommendations on abating violations of this chapter;

(c) Ensure that advice, consultation and education visits are distinguished from inspections, technical visits, or investigations, and are limited to interpretation and applicability of standards in this chapter including, but not limited to, the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means and practices in the licensee's licensed premise; and

(d) Advice, consultation, and educational visits provided under this program do not include business advice concerning issues that may include, but are not limited to, individual business operations, marketing, distribution, financing, profitability, or viability.

(2) Definitions.

(a) For purposes of this chapter, "a direct or immediate relationship to public health and safety" or "a direct or immediate risk to public health and safety" means, where the board can prove by a preponderance of the evidence:

(i) Diversion of ((~~marijuana~~)) cannabis product out of the regulated market or sales across state lines;

(ii) Furnishing of ((~~marijuana~~)) cannabis product to persons under ((~~twenty-one~~)) 21 years of age;

(iii) Diversion of revenue to criminal enterprise, gangs, cartels, or parties not qualified to hold a ((~~marijuana~~)) cannabis license based on criminal history requirements;

(iv) The commission of ((~~nonmarijuana-related~~)) noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to the conduct or action that is, or is alleged to be, any of the violations identified in (a) (i) through (iv) of this subsection.

(vi) Violations outlined in WAC 314-55-509 (1) (a), (b), and (c), and more fully described in WAC 314-55-520, 314-55-521, and 314-55-522.

(b) The definitions contained in chapters 314-55 WAC and 69.50 RCW also apply to this section.

(3) Request for consultation.

(a) A ((~~marijuana~~)) cannabis licensee or their designee may make one request for advice and consultation per year by completing and submitting an application to request consultation through the board's website. Additional requests may be considered at the board's discretion.

(b) A board representative will schedule and complete advice and consultation visits within ((~~forty-five~~)) 45 calendar days of receipt of the request for consultation.

(i) If the ((~~marijuana~~)) cannabis licensee or designee, or the board representative requires more than ((~~forty-five~~)) 45 calendar days to schedule and complete the consultation visit, the board representative may extend the completion deadline.

(ii) If the deadline is extended, at the licensee's request, more than ((~~sixty~~)) 60 days after the board's receipt of the request for consultation, the ((~~marijuana~~)) cannabis licensee must resubmit a request for consultation consistent with this section.

(4) Advice and consultation services.

(a) Advice and consultation services offered in connection with a request for consultation do not preclude informal requests, or usual and customary interactions between licensees, the board, or any board staff.

(b) Regulatory issues described in this chapter observed during the course of an advice, consultation, and education visit are not

subject to disciplinary action unless the identified issue has a direct or immediate relationship to public health and safety.

(c) Advice, consultation, education, and any written report or documentation provided under this section is limited to the matters specified in the request for consultation. At the request of the licensee, a consultation may include:

(i) An initial meeting to explain the licensee's rights and obligations;

(ii) A walk-through visit to evaluate the compliance concerns specified in the request for consultation;

(iii) A closing meeting to discuss conditions noted during the initial visit to make recommendations;

(iv) A written report of conditions found in the ((marijuana)) cannabis licensee's place of business and any recommendations or agreements made; or

(v) A follow-up visit, if appropriate, to ensure that the conditions specified in the request for consultation have been satisfactorily abated.

(d) If an identified condition is not a direct or immediate risk to public health and safety, the condition will be documented in the appropriate database as part of the consultation visit, and will include the following:

(i) A detailed description of the condition that is not in compliance;

(ii) The full text of the specific section or subsection of the statute or rule applicable to the condition that is not in compliance;

(iii) A statement and complete description of the actions and steps the licensee or their designee must take to achieve compliance;

(iv) The date, method of service, name, and signature of the licensee, their designee, or both participating in the visit; and

(v) The date that the licensee or their designee must achieve compliance. This date may be mutually agreed upon by the board representative and the licensee or their designee, and may be based on a variety of factors including, but not limited to, the cost and severity of the conditions to be abated.

(e) A consultation report or notice to correct made by a board representative under this section is not a formal enforcement action.

(f) The board representative will provide the licensee or their designee with instructions regarding how to request an extension of time consistent with subsection (5) of this section.

(g) The board representative may perform a follow-up visit within ((sixty)) 60 days of the mutually agreed upon compliance date based on the severity of the conditions described in this section.

(5) Licensee responsibilities.

(a) A ((marijuana)) cannabis licensee or their designee agrees to work with the board representative to schedule a consultation visit at a mutually agreed upon date and time.

(b) A ((marijuana)) cannabis licensee or their designee agrees to make reasonable efforts to correct or abate all conditions identified in the statement of conditions within the mutually agreed upon date and time.

(c) If a ((marijuana)) cannabis licensee or their designee is unable to correct or abate all of the conditions identified in the statement of conditions, the licensee or their designee may request an extension of time by submitting a written request. The written request must describe:

(i) The need for the extension;

- (ii) Confirmation of the steps taken to abate the conditions described in the statement of conditions; and
- (iii) A proposed abatement date.

[Statutory Authority: RCW 69.50.342 and 69.50.561. WSR 20-21-056, § 314-55-013, filed 10/14/20, effective 11/14/20.]

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-017 Conditional sales prohibited. Conditional sales of ((~~marijuana~~)) cannabis products are prohibited.

(1) ((~~Marijuana~~)) Cannabis producers and processors are prohibited from requiring the purchase of other products and/or services by another ((~~marijuana~~)) cannabis licensee as a condition of a transaction of ((~~marijuana~~)) cannabis product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, unreasonable processing and/or packaging charges.

(2) ((~~Marijuana~~)) Cannabis retailers are prohibited from requiring a customer to purchase other products and/or services as a condition to purchasing a ((~~marijuana~~)) cannabis product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, memberships, and bags, boxes, or containers.

(3) The selling price of ((~~marijuana~~)) cannabis product must be indicative of the true value when sold without any other products or services.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 15-11-107, § 314-55-017, filed 5/20/15, effective 6/20/15.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc. (1) No industry member or licensee shall enter into any agreement which causes undue influence over another licensee or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of ((~~marijuana~~)) cannabis that are made in accordance with usual and common business practice and that are otherwise in compliance with chapter 69.50 RCW and this chapter.

(2) No ((~~marijuana~~)) cannabis producer or processor shall advance and no ((~~marijuana~~)) cannabis licensee shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC 314-55-096 and RCW 69.50.585; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this section and under RCW 69.50.585.

(3) "Industry member" means a licensed ((marijuana)) cannabis producer, ((marijuana)) cannabis processor, ((marijuana)) cannabis retailer, ((marijuana)) cannabis transportation licensee, ((marijuana)) cannabis research licensee, their authorized representatives, and including, but not limited to, any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any licensee.

(4) Consistent with WAC 314-55-017, no industry member or employee thereof shall sell to any ((marijuana)) cannabis licensee or solicit from any such licensee any order for any ((marijuana)) cannabis tied in with, or contingent upon, the licensee's purchase of some other ((marijuana)) cannabis, or any other merchandise, paraphernalia, property, or service.

(5) If the WSLCB finds in any instance that any licensee has violated this section, then all licensees involved in the violation shall be held equally responsible.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-018, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-018, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-018, filed 5/20/15, effective 6/20/15.]

AMENDATORY SECTION (Amending WSR 20-18-099, filed 9/2/20, effective 10/3/20)

WAC 314-55-035 Qualifying for a ((marijuana)) cannabis license.

A ((marijuana)) cannabis license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) **True parties of interest.** True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

Entity	True party(ies) of interest
Sole proprietorship	Sole proprietor
General partnership	All partners
Limited partnership, limited liability partnership, or limited liability limited partnership	All general partners All limited partners
Limited liability company (LLC)	All LLC members All LLC managers
Privately held corporation	All corporate officers and directors (or persons with equivalent title) All stockholders

Entity	True party(ies) of interest
Multilevel ownership structures	All persons and entities that make up the ownership structure
Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business	Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year Any entity(ies) or person(s) who exercise(s) control over the licensed business
Nonprofit corporations	All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws

(2) A married couple may not be a true party of interest in more than five retail ((~~marijuana~~) cannabis) licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a ((~~marijuana~~) cannabis) retailer license and a ((~~marijuana~~) cannabis) producer license or a ((~~marijuana~~) cannabis) retailer license and a ((~~marijuana~~) cannabis) processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed ((~~ten~~) 10) percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

(5) Notification.

(a) Except as provided in this subsection (4) (a) (i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed ((marijuana)) cannabis business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

(6) Disclosure agreements and intellectual property.

(a) Licensed ((marijuana)) cannabis businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

(7) Financiers.

(a) Consistent with WAC 314-55-010(11), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.

(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.

[Statutory Authority: RCW 69.50.342, 69.50.345, 69.50.395 and 2019 c 380. WSR 20-18-099, § 314-55-035, filed 9/2/20, effective 10/3/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-035, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-035, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-073 ((Marijuana)) Cannabis research license. A ((marijuana)) cannabis research license allows a holder of the license to produce, process, and possess ((marijuana)) cannabis for the limited research purposes provided in RCW 69.50.372. The WSLCB designates a scientific reviewer (reviewer) to review research applications and make recommendations for the approval or denial of research projects and to assess licensed research activities. The following provisions are in addition to the requirements for ((marijuana)) cannabis research licensees provided in RCW 69.50.372.

(1) Eligibility and continuing requirements for research license applications, prohibitions and restrictions.

(a) Other than the restrictions listed in this subsection, any person, organization, agency, or business entity may apply for a ((marijuana)) cannabis research license.

(b) Other ((marijuana)) cannabis licensees may apply for a research license. Facilities at which the research is conducted must be wholly separate and distinct from the ((marijuana)) cannabis business, except:

(i) Licensed producers with a research license and approved research project may grow ((marijuana)) cannabis plants or possess ((marijuana)) cannabis for research purposes at the producer's licensed premises. However, all ((marijuana)) cannabis grown or possessed for research purposes or purposes other than those related to the research project must be kept wholly separated and distinct from commercial operations and must not be comingled with or diverted to ((marijuana)) cannabis grown for commercial purposes or purposes other than those related to the research project; and

(ii) Licensed processors with a research license and approved research project may possess ((marijuana)) cannabis for research purposes at the processors licensed premises. However, all ((marijuana)) cannabis possessed for research purposes must be kept wholly separated and distinct from all ((marijuana)) cannabis possessed for commercial purposes or purposes other than those related to the research project and must not be comingled with or diverted to ((marijuana)) cannabis possessed for commercial purposes or purposes other than those related to the research project. Licensed processors who do not also hold a producer license may not grow ((marijuana)) cannabis plants for the purposes of research under a research license at the processor's licensed location.

(c) Labs certified to perform quality assurance testing on ((marijuana)) cannabis and ((marijuana)) cannabis products by the WSLCB may apply for a research license. Certified labs with a research license

and approved research project must ensure that all (~~(marijuana)~~) cannabis possessed for research purposes is wholly separated from and is not comingled with (~~(marijuana)~~) cannabis possessed for state required testing purposes for licensed producers or processors or (~~(marijuana)~~) cannabis possessed for any reason other than research purposes.

(d) All research license applicants and persons conducting research under the research license must be (~~(twenty-one)~~) 21 years of age or older.

(e) All research license applicants and those persons that have managing control over an organization, agency, or business entity must pass a criminal background check and financial investigation prior to being eligible to receive a research license.

(f) Except as otherwise provided by chapter 69.50 RCW and agency rule, no applicant for a research license may possess any (~~(marijuana)~~) cannabis plants or (~~(marijuana)~~) cannabis for research purposes unless and until the research project is approved and the applicant is notified that the research license is approved in writing by the WSLCB.

(g) No research licensee may conduct research unless and until the research project is approved by the reviewer and the WSLCB in writing.

(2) **Initial applications.**

(a) **Application made with business licensing services (BLS).**

(i) Applicants for a research license must apply through BLS to begin the application process for a research license.

(ii) Upon submitting an application for a research license through BLS, the applicant will receive an application letter from the WSLCB directing the applicant to submit the additional application materials directly to the WSLCB's designated scientific reviewer (reviewer).

(A) The applicant must submit complete and accurate additional application materials directly to the reviewer within (~~(thirty)~~) 30 days of the date of the application letter from the WSLCB or by the date indicated on the application letter. It is the responsibility of the research license applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the reviewer.

(B) Incomplete or incorrect additional application materials, materials that do not adhere to the content requirements in this section, or materials not received by the reviewer by 5:00 p.m. on the 30th day or the application date as indicated on the letter from the WSLCB will not be considered by the reviewer and the WSLCB will withdraw the application after receiving notice in writing from the reviewer.

(b) **Additional application materials requirements.**

(i) Application materials that do not adhere to the content requirements in this section or incomplete or incorrect applications will be withdrawn.

(ii) The applicant is responsible for ensuring that no information is included in the research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual property protection. All application documents must be submitted by a person who has the legal authority to represent the entity if the applicant is an entity other than an individual person.

(iii) All documents must be submitted to the reviewer in a legible PDF format.

(iv) All of the following information and documents are required for each initial application:

(A) A completed cover page form, (~~(marijuana)~~) cannabis research license application form, and signature page form created by the WSLCB and available at the WSLCB's website at www.lcb.wa.gov.

(B) A research plan limited to eight pages, not including references or citations, that includes the following information:

(I) Purpose and goal(s) of the proposed research project(s);

(II) Key milestones and timelines for the research project(s);

(III) Background and preliminary studies;

(IV) Amount of (~~(marijuana)~~) cannabis to be grown, if applicable, including the justification with respect to milestone tasks;

(V) Anticipated cost of the proposed research project(s) and funding available for the work. The scientific reviewer may request additional information or ask clarifying questions about the cost of the proposal to determine whether the budget meets the scope and design of the proposed project;

(VI) Key personnel and organizations, including names and roles;

(VII) Facilities, equipment, and other resources required and available for conducting the proposed research project(s).

(C) A biosketch for each individual involved in executing the proposed research project limited to two pages per individual performing technical and administrative functions essential to performing the proposed research, including proof that the individual is (~~(twenty-one)~~) 21 years of age or older. Biosketches must be prepared using the National Institutes of Health (NIH) biographical sketch format, available at <http://grants.nih.gov/grants/forms/new-renewal-revisions.htm>.

(D) Letters of support limited to two pages per letter confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project. Letters of support are required to confirm the commitment of time and resources from personnel involved in the proposed research project(s) who are not employed at the applicant organization. Letters of support must include specific details regarding the type(s) and magnitude of the time and resources being committed to the proposed research project(s) and must be signed by individuals having the authority to make such commitments.

(E) For all project(s) involving human or animal subjects, documentation of all required institutional review board (IRB) or institutional animal care and use committee (IACUC) approvals. Documents must be provided on IRB or IACUC letterhead and be signed by authorized officials of those regulatory bodies.

(v) Documents that do not conform to the requirements in subsection (b) of this section may be withdrawn. All nonform documents must conform to the following requirements:

(A) Eight and one-half by 11-inch portrait-oriented page dimensions;

(B) Single-spaced with all margins measuring at least one inch; and

(C) At least 12-point font in Times New Roman or Arial, not proportionately reduced.

(c) **Review by the WSLCB's designated scientific reviewer.**

(i) If the applicant submits application materials to the reviewer by the required deadline specified by the WSLCB's application letter and the reviewer determines the additional application materials are complete and meet the document requirements specified in this sec-

tion, the reviewer will proceed with reviewing the research project to evaluate whether the project complies with the provisions of RCW 69.50.372 (1) and (2). The scientific reviewer may require the applicant to provide additional information if the scientific reviewer determines that more information is necessary to complete the review.

(ii) When evaluating research projects, the reviewer must:

(A) Ensure confidentiality;

(B) Screen members of the reviewer panel for any conflicts of interest and take appropriate measures if a conflict of interest is identified;

(C) Review all information, including the budget, to evaluate whether the scope and design of the proposed project matches the budget and resources of the applicant; and

(D) The scientific reviewer may require the applicant to submit to a site inspection. The site inspection may occur after the initial review and before the license is issued to evaluate the adequacy of the location, facilities, or equipment to complete the proposed project.

(iii) The reviewer will assess fees for the review of the research project proposal directly to the applicant pursuant to RCW 69.50.372(7). The reviewer will not recommend approval of an application for any research license for which an unpaid balance of fees to the reviewer is due regardless of the recommendation of the reviewer regarding the sufficiency of the research project.

(iv) If at any time during the process of review the reviewer finds that the additional application materials are not complete, the reviewer will notify the WSLCB in writing and the WSLCB will withdraw the application.

(v) The reviewer will supply a written evaluation to the WSLCB in writing after completing review of the research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation. The WSLCB will provide written evaluations to applicants following completion of the review process by the reviewer along with the WSLCB's approval or denial of the research license.

(d) **WSLCB requirements and licensing process.** If the reviewer indicates the application for a research license should be approved, the following requirements must be met prior to final approval of the license by the WSLCB.

(i) The WSLCB will request criminal background and financial information from the research license applicant and evaluate the applicant(s) pursuant to the standards and requirements established in WAC 314-55-020 except that research license applicants are not subject to prioritization under subsection (3) of that section;

(ii) Funding of the proposed research must be disclosed by the applicant(s) in amount, timing and source(s). Funding sources may include organizational resources and individuals and organizations that are not part of the person, organization, agency, or business entity applying for the research license. Out-of-state resources may be included, but must be identified;

(iii) The applicant(s) must adhere to the notice posting requirements under WAC 314-55-020;

(iv) The applicant must demonstrate access to and proficiency with the traceability system; and

(v) The applicant must meet facility security requirements as provided in WAC 314-55-083 prior to being granted a license.

(3) **Research license withdrawal and denials.**

(a) The WSLCB will withdraw an application if:

(i) The application or additional application materials are determined incomplete or incorrect by the WSLCB or its designated reviewer;

(ii) The additional application materials are not timely received by the reviewer as provided in this section; or

(iii) The applicant(s) request withdrawal of a research license application at any time in the application process. The applicant must request the withdrawal in writing and is responsible for any review costs due to the reviewer. The voluntary withdrawal of a research license application does not result in a hearing right.

(b) The WSLCB will deny a research license if:

(i) The scientific reviewer does not recommend approval of the license after reviewing the research proposal for compliance with this section or RCW 69.50.372;

(ii) The applicant does not meet the requirements for a license under this section or RCW 69.50.372; or

(iii) The applicant provides false or misleading information in any of the materials it submits to the WSLCB or the reviewer.

(c) If the WSLCB denies a research application for the reasons provided in (b) (iii) of this subsection or for failing to meet criminal history or administrative violations requirements under this section, the applicant(s) is prohibited from reapplying for a research license for one calendar year from the date of the WSLCB's denial of the license.

(d) A person or entity that has outstanding unpaid review fees owing to the scientific reviewer is prohibited from reapplying for a research license until all review fees are paid to the scientific reviewer.

(4) **Reporting required.**

(a) The WSLCB or the WSLCB's designated reviewer may require reporting by or auditing of research licensees as necessary.

(b) The WSLCB's designated reviewer must submit an annual status report of all completed and ongoing research projects for the previous year to the WSLCB by December 31st of each calendar year.

(c) The licensee must adhere to the reporting requirements in the traceability system under WAC 314-55-083.

(d) The reviewer must immediately notify the WSLCB if it receives information indicating that a research licensee is operating outside the scope of the projects approved under a research license.

(5) **Adding an additional research project or changing existing approved research project process (after licensure).**

(a) A research licensee is restricted to only those research activities under a research project that has been reviewed and approved by reviewer.

(b) Applications to add a new project or change an existing approved project is the same as what is required for initial application except that a new license application through BLS is not required. To apply to add a new research project or change an existing approved project, a research licensee must submit all materials to the reviewer as required under subsection (2) (b) of this section. Incomplete project applications will not be considered.

(c) The reviewer will review the application for a new research project or change to an existing approved research project pursuant to subsection (2) (c) of this section. The reviewer will supply a written evaluation to the WSLCB and the licensee in writing after completing

review of the application for a new research project or a change to an existing approved research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation.

(6) Research license renewals.

(a) Research license renewals operate on an annual basis, based on the license issuance date. A licensee must have an ongoing approved research project or an application for a new research project to be eligible for license renewal. The WSLCB will notify the licensee and reviewer (~~(ninety)~~) 90 days prior to the license renewal date. The licensee must provide a status report to the reviewer or an application for a new research project if the licensee's ongoing approved research project will end within (~~(thirty)~~) 30 days prior to or after the renewal date. The status report or application must be received by the reviewer within (~~(thirty)~~) 30 days of the (~~(ninety-day)~~) 90-day renewal notice from the WSLCB or the license will not be renewed.

(b) The reviewer will notify the WSLCB in writing if the licensee meets the requirements for renewal not later than (~~(fifteen)~~) 15 days prior to the licensee's renewal date.

(c) If the reviewer determines that the research project does not meet requirements for renewal due to lack of an ongoing project or for failure to meet the requirements of RCW 69.50.372 or this section for a proposed new project, the reviewer will recommend the WSLCB not renew the license.

(d) The WSLCB will review the licensee's violation history and criminal background check prior to renewal. If the violation history or criminal records disqualifies the licensee from eligibility for a research license under WAC 314-55-050, the WSLCB will not renew the license.

(7) License revocation.

(a) The WSLCB may revoke an application for the following reasons:

(i) The WSLCB has reason to believe that (~~(marijuana)~~) cannabis is being diverted from the research licensee;

(ii) The research licensee operates outside the scope of the research project(s) approved under the license issued to the licensee;

(iii) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the WSLCB during the application process or any subsequent investigation after a license has been issued;

(iv) The WSLCB finds that the licensee possesses (~~(marijuana)~~) cannabis plants, (~~(marijuana)~~) cannabis, or (~~(marijuana)~~) cannabis products that are not accounted for in the traceability system;

(v) The research licensee makes changes to their operating plan, entity structure, or location without prior approval from the WSLCB;

(vi) The research licensee fails to maintain security requirements for the licensed research facility; or

(vii) The licensee violates any provision of chapter 69.50 RCW or this chapter.

(b) A licensee may request voluntary cancellation of a license at any time. The licensee must request cancellation of a research license to the WSLCB in writing. The voluntary cancellation of a research license does not result in a hearing right.

(8) (~~(Marijuana)~~) Cannabis disposal requirements.

(a) Licensees must dispose of (~~(marijuana)~~) cannabis as provided in WAC 314-55-097.

(b) Licensees must dispose of ~~((marijuana))~~ cannabis if the research license is discontinued for any reason. A licensee may transfer plants to another ~~((marijuana))~~ cannabis research licensee. A licensee may work with the WSLCB to dispose of ~~((marijuana or marijuana))~~ cannabis or cannabis plants.

(9) An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a research license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the WSLCB no later than ~~((twenty))~~ 20 days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee. Appeal requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98501.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-073, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, and 69.50.372. WSR 17-04-038, § 314-55-073, filed 1/25/17, effective 2/25/17.]

AMENDATORY SECTION (Amending WSR 21-14-113, filed 7/7/21, effective 8/7/21)

WAC 314-55-075 ((Marijuana)) Cannabis producer license—Privileges, requirements, and fees. (1)(a) A ~~((marijuana))~~ cannabis producer license allows the licensee to produce, harvest, trim, dry, cure, and package ~~((marijuana))~~ cannabis into lots for sale at wholesale to ~~((marijuana))~~ cannabis processor licensees and to other ~~((marijuana))~~ cannabis producer licensees. A ~~((marijuana))~~ cannabis producer may also produce and sell:

(i) ~~((Marijuana))~~ Cannabis plants, seed, and plant tissue culture to other ~~((marijuana))~~ cannabis producer licensees;

(ii) Immature ~~((marijuana))~~ cannabis plants or clones and ~~((marijuana))~~ cannabis seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in this chapter; and

(iii) Immature ~~((marijuana))~~ cannabis plants or clones and ~~((marijuana))~~ cannabis seeds to a licensed ~~((marijuana))~~ cannabis researcher under the conditions provided in this chapter.

(b) ~~((Marijuana))~~ Cannabis production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least ~~((twenty))~~ 20 feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(2) The application fee for a ((marijuana)) cannabis producer license is ((~~two hundred fifty dollars~~)) \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a ((marijuana)) cannabis producer license is ((~~one thousand dollars~~)) \$1,000. The annual fee for issuance and renewal of a ((marijuana)) cannabis producer license is ((~~one thousand three hundred eighty one dollars~~)) \$1,381. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for criminal history checks.

(4) The application window for ((marijuana)) cannabis producer licenses is closed. The WSLCB may reopen the ((marijuana)) cannabis producer application window at subsequent times when the WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three ((marijuana)) cannabis producer licenses.

(6) The maximum amount of space for ((marijuana)) cannabis production cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 - Less than ((~~four thousand~~)) 4,000 square feet;

(b) Tier 2 - Four thousand square feet up to ((~~ten thousand~~)) 10,000 square feet; and

(c) Tier 3 - Ten thousand square feet up to ((~~thirty thousand~~)) 30,000 square feet.

(7) The WSLCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum square feet the WSLCB will reduce the allowed square footage by the same percentage.

(b) If ((~~fifty~~)) 50 percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the WSLCB may reduce the tier of licensure.

(8) If the total amount of square feet of ((marijuana)) cannabis production exceeds the maximum square feet, the WSLCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of ((marijuana)) cannabis on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

(10) A producer may not treat or otherwise adulterate useable ((marijuana)) cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable ((marijuana)) cannabis.

(11) A ((marijuana)) cannabis producer must make quality assurance test results available to any processor purchasing product. A ((marijuana)) cannabis producer must label each lot of ((marijuana)) cannabis with the following information:

(a) Lot number;

(b) UBI number of the producer; and

(c) Weight of the product.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-14-113, § 314-55-075, filed 7/7/21, effective 8/7/21. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-075, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, 2016 c 170, 2016 c 171, and 2016 c 17. WSR 16-19-102, § 314-55-075, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-075, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-075, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-075, 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, § 314-55-075, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-15-124, filed 7/21/21, effective 8/21/21)

WAC 314-55-077 ((Marijuana)) Cannabis processor license—Privileges, requirements, and fees. (1) A ((~~marijuana~~)) cannabis processor license allows the licensee to process, dry, cure, package, and label useable ((~~marijuana, marijuana~~)) cannabis, cannabis concentrates, and ((~~marijuana-infused~~)) cannabis-infused products for sale at wholesale to ((~~marijuana~~)) cannabis processors and ((~~marijuana~~)) cannabis retailers.

(2) **Application and license fees.**

(a) The application fee for a ((~~marijuana~~)) cannabis processor license is ((~~two hundred fifty dollars~~)) \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a ((~~marijuana~~)) cannabis processor license is ((~~one thousand three hundred eighty-one dollars~~)) \$1,381. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for ((~~marijuana~~)) cannabis processor licenses is closed. The board may reopen the ((~~marijuana~~)) cannabis processor application window at subsequent times when the board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three ((~~marijuana~~)) cannabis processor licenses.

(4) (a) A ((~~marijuana~~)) cannabis processor that makes ((~~marijuana-infused~~)) cannabis-infused solid or liquid product meant to be ingested orally ((~~marijuana~~)) cannabis edibles) must obtain a ((~~marijuana-infused~~)) cannabis-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the board or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A ((~~marijuana~~)) cannabis processor licensed by the board must ensure ((~~marijuana-infused~~)) cannabis-infused edible processing fa-

cilities 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 chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5) (a) A ((~~marijuana~~)) cannabis processor may blend tested useable ((~~marijuana~~)) cannabis from multiple lots into a single package for sale to a ((~~marijuana~~)) cannabis retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable ((~~marijuana~~)) cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable ((~~marijuana~~)) cannabis.

(6) Recipes, product, packaging, and labeling approval.

(a) A ((~~marijuana~~)) cannabis processor licensee must obtain label and packaging approval from the board for all ((~~marijuana-infused~~)) cannabis-infused products meant for oral ingestion prior to offering these items for sale to a ((~~marijuana~~)) cannabis retailer. The ((~~marijuana~~)) cannabis processor licensee must submit a picture of the product, labeling, and packaging to the board for approval. More information on the product, packaging, and label review process is available on the board's website.

(b) All recipes for ((~~marijuana-infused~~)) cannabis-infused products meant for oral ingestion ((~~marijuana~~)) cannabis edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any ((~~marijuana~~)) cannabis edible products, packages, and labels for review and approval by the board. The recipe for any ((~~marijuana-infused~~)) cannabis-infused solid or liquid products meant to be ingested orally must be kept on file at the ((~~marijuana~~)) cannabis processor's licensed premises and made available for inspection by the board or its designee.

(c) If the board denies a ((~~marijuana-infused~~)) cannabis-infused product for sale in ((~~marijuana~~)) cannabis retail outlets, the ((~~marijuana~~)) cannabis processor licensee may request an administrative hearing under chapter 34.05 RCW, Administrative Procedure Act.

(7) With the exception of the ((~~marijuana~~)) cannabis, all ingredients used in making ((~~marijuana-infused~~)) cannabis-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(8) ((~~Marijuana-infused~~)) Cannabis-infused edible products in solid or liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

(9) A ((~~marijuana~~)) cannabis processor may infuse food or drinks with ((~~marijuana~~)) cannabis, provided that:

(a) The product or products do not require cooking or baking by the consumer;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under ((~~twenty-one~~)) 21 years of age, as defined by WAC 314.55.105 (1) (c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with ((~~marijuana~~)) cannabis. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food

that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with ((marijuana)) cannabis.

(11) Other food items that may not be infused with ((marijuana)) cannabis to be sold in a retail store include:

- (a) Any food that has to be acidified to make it shelf stable;
- (b) Food items made shelf stable by canning or retorting;
- (c) Fruit or vegetable juices (this does not include shelf stable concentrates);
- (d) Fruit or vegetable butters;
- (e) Pumpkin pies, custard pies, or any pies that contain egg;
- (f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and
- (g) Dried or cured meats.

(h) Vinegars and oils derived from natural sources may be infused with dried ((marijuana)) cannabis if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(i) ((Marijuana-infused)) Cannabis-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(12) Consistent with WAC 314-55-104, a ((marijuana)) cannabis processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable ((marijuana-infused)) cannabis-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

The board may designate other food items that may not be infused with ((marijuana)) cannabis.

(13) ((Marijuana)) Cannabis processor licensees are allowed to have a maximum of six months of their average useable ((marijuana)) cannabis and six months average of their total production on their licensed premises at any time.

(14) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable ((marijuana)) cannabis or an altered form of useable ((marijuana-marijuana)) cannabis (cannabis product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess ((marijuana)) cannabis or ((marijuana)) cannabis products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within ((thirty)) 30 calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any ((marijuana)) cannabis or ((marijuana)) cannabis product involved in the transaction will be subject to seizure and destruction. Payment with any ((marijuana)) cannabis products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(15) ((Marijuana)) Cannabis may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of ((marijuana)) cannabis and ((marijuana)) cannabis products returned to the processor by any retail licensee.

(b) ((Marijuana)) Cannabis may be returned by a retail licensee in the event a retailer goes out of the business of selling ((marijuana)) cannabis at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the ((marijuana)) cannabis or ((marijuana)) cannabis products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.

(c) ((Marijuana)) Cannabis products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with ((marijuana)) cannabis products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A ((marijuana)) cannabis processor may accept returns of products and sample jars from ((marijuana)) cannabis retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

(16) The board may take disciplinary action against any ((marijuana)) cannabis processor that fails to comply with the provisions of WAC 246-80-021.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-15-124, § 314-55-077, filed 7/21/21, effective 8/21/21. Statutory Authority: RCW 69.50.342, 69.50.345 and 2019 c 393. WSR 20-01-172, § 314-55-077, filed 12/18/19, effective 1/1/20. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-077, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-077, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-077, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-077, 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, § 314-55-077, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-080 Medical ((marijuana)) cannabis endorsement. (1) **A medical ((marijuana)) cannabis endorsement added to a ((marijuana)) cannabis retail license allows the ((marijuana)) cannabis retail licensee to:**

(a) Sell ((marijuana)) cannabis for medical use to qualifying patients and designated providers; and

(b) Provide ((marijuana)) cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) Qualifying patients between ((eighteen and twenty-one)) 18 and 21 years of age with a recognition card may enter and remain on

the premises of a retail outlet holding a medical ((~~marijuana~~)) cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of ((~~eighteen~~)) 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical ((~~marijuana~~)) cannabis endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of ((~~eighteen~~)) 18 who holds a valid recognition card.

(3) To maintain a medical ((~~marijuana~~)) cannabis endorsement in good standing, a ((~~marijuana~~)) cannabis retailer must:

(a) Follow all rules adopted by the department of health regarding retail sales of medical ((~~marijuana~~)) cannabis;

(b) Have a consultant on staff in accordance with department of health rules;

(c) Prohibit the medical use of ((~~marijuana~~)) cannabis by anyone at the retail outlet at all times, including medical use by qualifying patients;

(d) Maintain at all times, a representative assortment of ((~~marijuana~~)) cannabis products necessary to meet the needs of qualified patients and designated providers;

(e) Not market ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana~~)) cannabis, or ((~~marijuana-infused~~)) cannabis-infused products in a way that make them especially attractive to minors;

(f) Demonstrate the ability to enter qualifying patients and designated providers in the medical ((~~marijuana~~)) cannabis authorization database established by the department of health;

(g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;

(h) Keep records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical ((~~marijuana~~)) cannabis authorization database;

(i) Train employees on the following:

(i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical ((~~marijuana~~)) cannabis authorization database;

(ii) Recognition of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana~~)) cannabis, and ((~~marijuana-infused~~)) cannabis-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(4) A ((~~marijuana~~)) cannabis retailer holding a medical ((~~marijuana~~)) cannabis endorsement may sell products with a THC concentration of 0.3 percent or less. The licensee may also provide these products at no charge to qualifying patients or designated providers.

(5) Unlicensed practice of medicine. No owner, employee, or volunteer of a retail outlet and holding a medical ((~~marijuana~~)) cannabis endorsement may:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condi-

tion, physical or mental, real or imaginary, by use of ((~~marijuana~~)) cannabis products or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of ((~~marijuana~~)) cannabis products.

(6) Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical ((~~marijuana~~)) cannabis endorsement.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-080, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-080, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-083 Security and traceability requirements for ((~~marijuana~~)) cannabis licensees. The security requirements for a ((~~marijuana~~)) cannabis licensee are as follows:

(1) **Display of identification badge.** All licensees and employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises and engaged in the transportation of ((~~marijuana~~)) cannabis. The identification badge must list the licensee's trade name and include the person's full and legal name and photograph. All licensees and employees must have their state issued identification available to verify the information on their badge is correct.

(a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

(b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

(c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request.

(d) Employees, visitors, and other persons at a ((~~marijuana~~)) cannabis licensed premises, including persons engaged in the transportation of ((~~marijuana~~)) cannabis, must provide identification to a WSLCB enforcement officer upon request.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be used.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and

exits to an indoor facility must be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously (~~(twenty-four)~~) 24 hours per day and at a minimum of (~~(ten)~~) 10 frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of (~~(forty-five)~~) 45 days on the licensee's recording device. All videos are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards. Controlled areas include:

(a) Any area within an indoor, greenhouse or outdoor room or area where (~~(marijuana)~~) cannabis is grown, or (~~(marijuana)~~) cannabis or (~~(marijuana)~~) cannabis waste is being moved within, processed, stored, or destroyed. Rooms or areas where (~~(marijuana)~~) cannabis or (~~(marijuana)~~) cannabis waste is never present are not considered control areas and do not require camera coverage.

(b) All point-of-sale (POS) areas.

(c) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

(d) Any room or area storing a surveillance system storage device.

(4) **Traceability:** To prevent diversion and to promote public safety, (~~(marijuana)~~) cannabis licensees must track (~~(marijuana)~~) cannabis from seed to sale. Licensees must provide the required information on a system specified by the WSLCB. All costs related to the reporting requirements are borne by the licensee. (~~(Marijuana)~~) Cannabis seedlings, clones, plants, lots of useable (~~(marijuana)~~) cannabis or trim, leaves, and other plant matter, batches of extracts, (~~(marijuana-infused)~~) cannabis-infused products, samples, and (~~(marijuana)~~) cannabis waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the WSLCB:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of (~~(marijuana, marijuana)~~) cannabis, cannabis extract, (~~(marijuana)~~) cannabis concentrates, (~~(marijuana-infused)~~) cannabis-infused product, or (~~(marijuana)~~) cannabis waste is to be destroyed;

(d) When useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products are transported;

(e) Any theft of useable (~~(marijuana, marijuana)~~) cannabis, cannabis seedlings, clones, plants, trim or other plant material, ex-

tract, infused product, seed, plant tissue or other item containing ((marijuana)) cannabis;

(f) All ((marijuana)) cannabis plants eight or more inches in height or width must be physically tagged and tracked individually;

(g) A complete inventory of all ((marijuana)) cannabis, seeds, plant tissue, seedlings, clones, all plants, lots of useable ((marijuana)) cannabis or trim, leaves, and other plant matter, batches of extract, ((marijuana)) cannabis concentrates, ((marijuana-infused)) cannabis-infused products, and ((marijuana)) cannabis waste;

(h) All ((marijuana)) cannabis, useable ((marijuana, marijuana-infused)) cannabis, cannabis-infused products, ((marijuana)) cannabis concentrates, seeds, plant tissue, clone lots, and ((marijuana)) cannabis waste must be physically tagged with the unique identifier generated by the traceability system and tracked;

(i) All point-of-sale records;

(j) ((Marijuana)) Cannabis excise tax records;

(k) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

(l) All vendor samples provided to another licensee for purposes of education or negotiating a sale;

(m) All samples used for testing for quality by the producer or processor;

(n) Samples containing useable ((marijuana)) cannabis provided to retailers;

(o) Samples provided to the WSLCB or their designee for quality assurance compliance checks; and

(p) Other information specified by the board.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-083, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-083, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-083, filed 5/20/15, effective 6/20/15; WSR 14-07-116, § 314-55-083, 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, § 314-55-083, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-084 ((Marijuana)) Cannabis plant production. (1) Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of ((marijuana)) cannabis:

(a) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of ((marijuana)) cannabis. Pesticides must be used consistent with the label requirements.

(b) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(c) Potting soil, crop production aids, soil amendments, and other growing media available commercially in the state of Washington may be used in ((marijuana)) cannabis production. Producers growing out-

doors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

(2) Examples of prohibited products:

(a) The use of products containing plant growth regulators not allowed for use on food crops including, but not limited to, any of the following ingredients, is prohibited:

- (i) Ancymidol;
- (ii) Chlormequat chloride;
- (iii) Clofencet;
- (iv) Colchicine;
- (v) Colloidal silver;
- (vi) Daminozide;
- (vii) Dikegulac-sodium;
- (viii) Flumetralin;
- (ix) Flurprimidol; and
- (x) Paclobutrazol.

(b) The use of vitamin-hormone products not intended for use on food crops is prohibited.

(c) The use of products containing the insecticide DDVP (Dichlorvos) is prohibited in all areas where ((~~marijuana~~)) cannabis is being grown or processed.

(3) Soil amendments, fertilizers, growing media, other crop production aids, and pesticides that do not conform to subsections (1) and (2) of this section cannot be used, kept, or stored on the licensed premises.

(4) The following ((~~marijuana~~)) cannabis and ((~~marijuana~~)) cannabis products are subject to seizure and destruction:

(a) ((~~Marijuana~~)) Cannabis exposed to unauthorized soil amendments or fertilizers; and

(b) ((~~Marijuana~~)) Cannabis with levels of unauthorized pesticides or plant growth regulators as provided in WAC 314-55-108.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-084, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-084, filed 5/18/16, effective 6/18/16; WSR 14-10-044, § 314-55-084, 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, § 314-55-084, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-085 What are the transportation requirements for a ((~~marijuana~~)) cannabis licensee? (1) **Notification of shipment.** Upon transporting any ((~~marijuana~~)) cannabis or ((~~marijuana~~)) cannabis product, a producer, processor, retailer, or certified third-party testing lab shall notify the WSLCB of the type and amount and/or weight of ((~~marijuana~~)) cannabis and/or ((~~marijuana~~)) cannabis products being transported, the name of transporter, information about the transporting vehicle, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee or certified third-party lab receiving the product shall report the amount and/or weight of ((~~marijuana~~)) cannabis and/or ((~~marijuana~~)) cannabis products received in the traceability system.

(3) **Transportation manifest.** A complete printed transport manifest on a form provided by the WSLCB containing all information required by the WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection.

(5) **Transportation of product.** ((~~Marijuana~~)) Cannabis or ((~~marijuana~~)) cannabis products that are being transported must meet the following requirements:

(a) Only the ((~~marijuana~~)) cannabis licensee, an employee of the licensee, a transportation licensee, or a certified testing lab may transport product and/or occupy a transporting vehicle;

(b) Drivers and/or occupants of a transporting vehicle must be ((~~twenty-one~~)) 21 years of age or older;

(c) ((~~Marijuana~~)) Cannabis or ((~~marijuana~~)) cannabis products must be in a sealed package or container approved by the WSLCB pursuant to WAC 314-55-105;

(d) Sealed packages or containers cannot be opened during transport;

(e) ((~~Marijuana~~)) Cannabis or ((~~marijuana~~)) cannabis products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the ((~~marijuana~~)) cannabis or ((~~marijuana~~)) cannabis products;

(f) Any vehicle transporting ((~~marijuana~~)) cannabis or ((~~marijuana~~)) cannabis products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product;

(g) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting ((~~marijuana~~)) cannabis, usable ((~~marijuana~~, ~~marijuana~~)) cannabis, cannabis concentrates, or ((~~marijuana-infused~~)) cannabis-infused products shall be considered an extension of the licensed premises. Transport vehicles are subject to inspection by enforcement officers of the WSLCB. Vehicles assigned for transportation may be stopped and inspected by a WSLCB enforcement officer at any licensed location, or while en route during transportation.

(7) All ((~~marijuana~~)) cannabis plants, clones, seeds, lots, batches, intermediate products, end products, vendor samples, and sample jars must remain physically tagged during transport.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-085, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-085, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-085, 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, § 314-55-085, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 19-10-076, filed 5/1/19, effective 6/1/19)

WAC 314-55-086 Mandatory signage. (1) All licensed (~~(marijuana)~~) cannabis processors, producers, and retailers, with the exception of licensed retailers with a medical (~~(marijuana)~~) cannabis endorsement, must conspicuously post a notice provided by the board about persons under (~~(twenty-one)~~) 21 years of age at each entry to all licensed premises. The notice must contain all of the following language: "Persons under (~~(twenty-one)~~) 21 years of age not permitted on these premises."

(2) All licensed retailers with a medical (~~(marijuana)~~) cannabis endorsement must conspicuously post a notice provided by the board regarding persons under (~~(twenty-one)~~) 21 years of age at each entry to all licensed medical (~~(marijuana)~~) cannabis premises. The notice must contain all of the following language: "Persons under (~~(twenty-one)~~) 21 years of age not permitted on these premises without a valid qualifying patient card. Qualifying patients under the age of (~~(eighteen)~~) 18 must be accompanied by their designated provider at all times."

(3) All licensed (~~(marijuana)~~) cannabis retailers must conspicuously post a sign provided by the board regarding the use of (~~(marijuana)~~) cannabis during pregnancy and breastfeeding as follows:

- (a) At each point of sale; and
- (b) In a location easily visible to employees.

(4) All licensed (~~(marijuana)~~) cannabis retailers must conspicuously post a notice provided by the board prohibiting the opening of a package of (~~(marijuana)~~) cannabis or (~~(marijuana-infused)~~) cannabis-infused product in public or consumption of (~~(marijuana)~~) cannabis or (~~(marijuana-infused)~~) cannabis-infused products in public. The notice must be posted in plain view at the main entrance of the (~~(marijuana)~~) cannabis retail establishment.

(5) All licensed (~~(marijuana)~~) cannabis processors, producers, and retailers must conspicuously post on the premises and make available their current and valid master license or licenses with appropriate endorsements for inspection by board enforcement officers.

(6) Firearms prohibited signs provided by the board must be posted at the entrance of each producer, processor, and retailer licensed location.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 19-10-076, § 314-55-086, filed 5/1/19, effective 6/1/19; WSR 16-11-110, § 314-55-086, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-086, 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, § 314-55-086, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-087 Recordkeeping requirements for ((marijuana)) cannabis licensees. (1) ((Marijuana)) Cannabis licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a five-year period and must be made available for inspection if requested by an employee of the WSLCB:

- (a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;
- (b) Bank statements and canceled checks for any accounts relating to the licensed business;
- (c) Accounting and tax records related to the licensed business and each true party of interest;
- (d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;
- (e) All employee records to include, but not limited to, training, payroll, and date of hire;
- (f) Records of each daily application of pesticides applied to the ((marijuana)) cannabis plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:
 - (i) Full name of each employee who applied the pesticide;
 - (ii) The date the pesticide was applied;
 - (iii) The name of the pesticide or product name listed on the registration label which was applied;
 - (iv) The concentration and total amount of pesticide per plant;
- and
- (v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per ((one hundred)) 100 gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.
- (g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing ((marijuana)) cannabis;
- (h) Production and processing records, including harvest and curing, weighing, destruction of ((marijuana)) cannabis, creating batches of ((marijuana-infused)) cannabis-infused products and packaging into lots and units;
- (i) Records of each batch of extracts or infused ((marijuana)) cannabis products made, including at a minimum, the lots of useable ((marijuana)) cannabis or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;
- (j) Transportation records as described in WAC 314-55-085;
- (k) Inventory records;
- (l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing useable (~~(marijuana)~~) cannabis provided to retailers; and

(p) Records of any theft of (~~(marijuana)~~) cannabis seedlings, clones, plants, trim or other plant material, extract, (~~(marijuana-infused)~~) cannabis-infused product, or other item containing (~~(marijuana)~~) cannabis.

(q) Records of any (~~(marijuana)~~) cannabis product provided free of charge to qualifying patients or designated providers.

(2) If the (~~(marijuana)~~) cannabis licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-087, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-087, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-087, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-089 Tax and reporting requirements for (~~(marijuana)~~) cannabis licensees. (1) (~~(Marijuana)~~) Cannabis retailer licensees must submit monthly report(s) and payments to the WSLCB. The required monthly reports must be:

(a) On a form or electronic system designated by the WSLCB;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the WSLCB on or before the (~~(twentieth)~~) 20th day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the (~~(twentieth)~~) 20th day of the month falls

on a Saturday, Sunday, or a legal holiday, the filing must be post-marked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each ((~~marijuana~~)) cannabis license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **((~~Marijuana~~)) Cannabis producer licensees:** On a monthly basis, ((~~marijuana~~)) cannabis producers must maintain records and report purchases from other licensed ((~~marijuana~~)) cannabis producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(3) **((~~Marijuana~~)) Cannabis processor licensees:** On a monthly basis, ((~~marijuana~~)) cannabis processors must maintain records and report purchases from licensed ((~~marijuana~~)) cannabis producers, other ((~~marijuana~~)) cannabis processors, production of ((~~marijuana-infused~~)) cannabis-infused products, sales by product type to ((~~marijuana~~)) cannabis retailers, and lost and/or destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(4) **((~~Marijuana~~)) Cannabis retailer's licensees:**

(a) On a monthly basis, ((~~marijuana~~)) cannabis retailers must maintain records and report purchases from licensed ((~~marijuana~~)) cannabis processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the WSLCB.

(b) A ((~~marijuana~~)) cannabis retailer licensee must collect from the buyer and remit to the WSLCB a ((~~marijuana~~)) cannabis excise tax of ((~~thirty-seven~~)) 37 percent of the selling price on each retail sale of useable ((~~marijuana, marijuana~~)) cannabis, cannabis concentrates, and ((~~marijuana-infused~~)) cannabis-infused products.

(c) Product inventory reductions that are not adequately documented will be deemed to be sales and will be assessed the excise tax.

(d) Excise tax collected in error must either be returned to the customer(s) or remitted to the WSLCB if returning to the customer(s) is not possible.

(5) **Payment methods:** ((~~Marijuana~~)) Cannabis excise tax payments are payable only by check, cashier's check, money order, or electronic payment or electronic funds transfer. Licensees must submit ((~~marijuana~~)) cannabis excise tax payments to the board by one of the following means:

(a) By mail to WSLCB, Attention: Accounts Receivable, P.O. Box 43085, Olympia, WA 98504;

(b) By paying through online access through the WSLCB traceability system; or

(c) By paying using a money transmitter licensed pursuant to chapter 19.230 RCW. If a licensee uses a money transmitter service, the licensee must remit payments in U.S. dollars.

(6) Payments transmitted to the board electronically under this section will be deemed received when received by the WSLCB's receiving account. All other payments transmitted to the WSLCB under this section by United States mail will be deemed received on the date shown by the post office cancellation mark stamped on the envelope containing the payment.

(7) The WSLCB may waive the means of payment requirements as provided in subsection (5) of this section for any licensee for good cause shown. For the purposes of this section, "good cause" means the inability of a licensee to comply with the payment requirements of this section because:

(a) The licensee demonstrates it does not have and cannot obtain a bank or credit union account or another means by which to comply with the requirements of subsection (5) of this section and cannot obtain a cashier's check or money order; or

(b) Some other circumstance or condition exists that, in the WSLCB's judgment, prevents the licensee from complying with the requirements of subsection (5) of this section.

(8) If a licensee tenders payment of the (~~marijuana~~) cannabis excise tax in cash without applying for and receiving a waiver or after denial of a waiver, the licensee may be assessed a (~~ten~~) 10 percent penalty.

(9) If a licensee is denied a waiver and requests an adjudicative proceeding to contest the denial, a brief adjudicative proceeding will be conducted as provided under RCW 34.05.482 through 34.05.494.

(10) For the purposes of this section, "electronic payment" or "electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-089, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, 69.50.535, and 2016 1st sp.s. c 36. WSR 16-19-002, § 314-55-089, filed 9/7/16, effective 10/8/16. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-089, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-089, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-089, 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, § 314-55-089, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes. (1) If a (~~marijuana~~) cannabis licensee does not submit its payment(s) to the WSLCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on the outstanding balance for any payments postmarked after the (~~twentieth~~) 20th day of the month following the month of sale. When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the WSLCB or authorized designee, will be used to assess the penalty of two percent per month on the outstanding balance

after the (~~twentieth~~) 20th day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the WSLCB to suspend or revoke a (~~marijuana~~) cannabis license.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-092, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-092, filed 5/18/16, effective 6/18/16; WSR 14-10-044, § 314-55-092, 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, § 314-55-092, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-095 (~~Marijuana~~) 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 (~~twenty-one~~) 21 and older and qualifying patients or designated providers who are not entered into the medical (~~marijuana~~) cannabis authorization database, (~~marijuana~~) cannabis serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a (~~marijuana-infused~~) cannabis-infused product must not exceed (~~ten~~) 10 milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** The maximum number of servings in any one single unit of (~~marijuana-infused~~) cannabis-infused product meant to be eaten or swallowed or otherwise taken into the body is (~~ten~~) 10 servings or (~~one-hundred~~) 100 milligrams of active THC, or Delta 9. A single unit of (~~marijuana~~) cannabis concentrate cannot exceed one gram.

(c) **Transaction limits.**

(i) A single transaction is limited to:

(A) One ounce of useable (~~marijuana~~) cannabis;

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

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

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

(E) Ten units of a (~~marijuana-infused~~) cannabis-infused product otherwise taken into the 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 (~~marijuana~~) 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 (~~marijuana-infused~~) cannabis-infused product

must not exceed ~~((ten))~~ 10 milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** Except as provided in chapter 246-70 WAC, the maximum number of servings in any one single unit of ~~((marijuana-infused))~~ cannabis-infused product meant to be eaten, swallowed or applied is ~~((ten))~~ 10 servings or ~~((one-hundred))~~ 100 milligrams of active THC, or Delta 9. A single unit of ~~((marijuana))~~ cannabis concentrate cannot exceed one gram.

(c) **Transaction limitation.** A single transaction by a retail store with a medical ~~((marijuana))~~ cannabis endorsement to a qualifying patient or designated provider who is entered into the medical ~~((marijuana))~~ cannabis database is limited to three ounces of useable ~~((marijuana, forty-eight))~~ cannabis, 48 ounces of ~~((marijuana-in-fused))~~ cannabis-infused product meant to be eaten or swallowed in solid form, ~~((twenty-one))~~ 21 grams of ~~((marijuana-infused))~~ cannabis-infused extract or ~~((marijuana))~~ cannabis concentrate for inhalation, and ~~((two-hundred-sixteen))~~ 216 ounces of ~~((marijuana-infused))~~ cannabis-infused product in liquid form meant to be eaten or swallowed.

[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.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-096 Vendor, educational, and internal quality control samples. (1) **Vendor samples:** Producers or processors may provide free samples of useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, and ~~((marijuana))~~ cannabis concentrates to negotiate a sale on product the retail licensee does not currently carry. All vendor sample limits are based on calendar months. The producer or processor must record the amount of each vendor sample and the processor or retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a "vendor sample" to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the vendor sample in the traceability system prior to sampling.

(a) Vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy.

(b) Producers may not provide any one licensed processor more than eight grams of ~~((marijuana))~~ cannabis flower per month free of charge for the purpose of negotiating a sale.

(c) Processors may not provide any one licensed retailer more than eight grams of useable ~~((marijuana))~~ cannabis per month free of charge for the purpose of negotiating a sale.

(d) Processors may not provide any one licensed retailer more than eight units of ~~((marijuana-infused))~~ cannabis-infused products in

solid form meant to be ingested orally or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single unit may exceed 10 mg of THC.

(e) Processors may not provide any one licensed retailer more than eight units of (~~(marijuana-infused)~~) cannabis-infused product in liquid form meant to be eaten, swallowed, or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single unit may exceed 10 mg of THC.

(f) Processors may not provide any one licensed retailer more than eight units of (~~(marijuana-infused)~~) cannabis-infused products meant to be applied topically per month free of charge for the purpose of negotiating a sale.

(g) Processors may not provide any one licensed retailer more than two units of (~~(marijuana-infused)~~) cannabis-infused extract meant for inhalation or infused (~~(marijuana)~~) cannabis mix per month free of charge for the purpose of negotiating a sale. No single unit may exceed 0.5 g.

(h) A (~~(marijuana)~~) cannabis producer must make quality assurance test results available to any processor receiving samples to negotiate a sale. The producer must also provide a statement that discloses all pesticides applied to the (~~(marijuana)~~) cannabis plants and growing medium during production.

(i) A (~~(marijuana)~~) cannabis processor must make quality assurance test results available to any retailer receiving samples to negotiate a sale. If a (~~(marijuana)~~) cannabis extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(j) **Vendor sample labeling:** All vendor samples must be clearly labeled as a vendor sample and meet all labeling requirements of the product to be sampled.

(i) The unique identifier number generated by the traceability system;

(ii) The UBI number of the licensed entity providing the sample; and

(iii) Weight of the product in ounces and grams or volume as applicable.

(2) **Education sampling.** Processors may provide free samples of useable (~~(marijuana, marijuana-infused)~~) cannabis, cannabis-infused products, and (~~(marijuana)~~) cannabis concentrates to retail licensees to give to the licensee's employees for educational purposes. Products being sampled must be carried by the licensed retailer. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as "education sample" and recorded on a transport manifest. Once the retailer receives the sample, the retailer must accept the sample in the traceability system prior to distributing samples to the retailer's employees. All employees at a licensed retail location who receive educational samples must be entered into the traceability system for the purpose of distributing education samples.

(a) Retailers are restricted to receiving a maximum of (~~(one hundred)~~) 100 sample units per calendar month. No more than (~~(ten)~~) 10 sample units may be provided to any one employee per calendar month.

(b) The maximum size of education samples are:

(i) Useable (~~(marijuana, marijuana)~~) cannabis, cannabis mix, and infused (~~(marijuana)~~) cannabis mix - One unit not to exceed 0.5 g.

(ii) ((~~Marijuana~~)) Cannabis infused solid or liquid product meant to be ingested orally or otherwise taken into the body - One unit not to exceed 10 mg THC.

(iii) ((~~Marijuana-infused~~)) Cannabis-infused extract for inhalation - One unit not to exceed 0.25 g.

(iv) ((~~Marijuana-infused~~)) Cannabis-infused products for topical application - One unit not to exceed ((~~sixteen~~)) 16 ounces.

(c) Distribution and consumption of all educational samples is limited to retail employees who directly sell product to retail customers. Retail employees who are not involved in direct sales to customers are not eligible for education samples.

(d) ((~~Marijuana~~)) Cannabis retail licensees are prohibited from providing educational samples to their employees as a form of compensation.

(e) A ((~~marijuana~~)) cannabis processor must make quality assurance test results available to any retailer receiving education samples. If a ((~~marijuana~~)) cannabis extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(f) **Education sample labeling:** All education samples must be clearly labeled "education sample" and include the following information on the label:

(i) The unique identifier number generated by the traceability system;

(ii) The UBI number and trade name of the licensed entity providing the sample;

(iii) Product name or strain name for useable ((~~marijuana~~)) cannabis;

(iv) Weight of the product in ounces and grams or volume as applicable; and

(v) Potency labeled as required under WAC 314-55-105.

(3) A ((~~marijuana~~)) cannabis processor is not required to provide free samples to negotiate a sale or educational samples to a ((~~marijuana~~)) cannabis retail licensee, and a ((~~marijuana~~)) cannabis retail licensee may not require a ((~~marijuana~~)) cannabis processor to provide free sample to negotiate a sale or educational samples as a condition for purchasing the ((~~marijuana~~)) cannabis processor's products.

(4) **Internal quality control sampling:** Producers and processors may conduct limited self-sampling for quality control. All sample limits are based on calendar months. Consuming samples for quality control may not take place at a licensed premises. Only the producer, processor, or employees of the licensee may sample the ((~~marijuana~~)) cannabis flower, useable ((~~marijuana, marijuana-infused~~)) cannabis, cannabis-infused products, ((~~marijuana~~)) cannabis concentrates, and edible ((~~marijuana-infused~~)) cannabis-infused product. The producer or processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(a) Producers may sample two grams of ((~~marijuana~~)) cannabis flower per strain, per month for quality sampling.

(b) Processors may sample one unit per batch of a new ((~~marijuana-infused~~)) cannabis-infused product meant to be ingested orally or otherwise taken into the body to be offered for sale on the market.

(c) Processors may sample up to one unit per batch of a new ((~~marijuana-infused~~)) cannabis-infused extract for inhalation to be offered for sale on the market. No single sample may exceed 0.5 g.

(d) Processors may sample one unit per batch of a new ((~~marijuana~~)) cannabis mix packaged to be offered for sale on the market. No single sample may exceed 1 g.

(e) Processors may sample one unit per batch of a new infused ((~~marijuana~~)) cannabis mix to be offered for sale on the market. No sample may exceed 0.5 g.

(f) Processors may sample one unit per batch of a new ((~~marijuana-infused~~)) cannabis-infused product for topical application to be offered for sale on the market. No sample may exceed ((~~sixteen~~)) 16 ounces.

(5) **Retailers may not provide free samples to customers.**

(6) **Sample jars:**

(a) A processor may provide a retailer free samples of useable ((~~marijuana~~)) cannabis packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of useable ((~~marijuana~~)) cannabis. The plastic or metal mesh screen must be sealed onto the container, and must be free of rips, tears, or holes greater than 2 mm in diameter. The sample jar and the useable ((~~marijuana~~)) cannabis within may not be sold to a customer and must be returned to the licensed processor who provided the useable ((~~marijuana~~)) cannabis and sample jar.

(b) **Sample jar labeling:** All sample jars must be labeled with the following:

(i) The unique identifier number generated by the traceability system;

(ii) Information identifying whether it is a vendor sample or sample jar;

(iii) The UBI number of the licensed entity providing the sample; and

(iv) Weight of the product in ounces and grams or volume as applicable.

(c) A ((~~marijuana~~)) cannabis processor must make quality assurance test results available to any retailer receiving sample jars. The processor must also provide a statement that discloses all pesticides applied to the ((~~marijuana~~)) cannabis plants and growing medium during production.

(d) If a ((~~marijuana~~)) cannabis extract was added to the product, the processor must disclose to the retailer the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(7) **Transportation.** Outgoing and return vendor samples and sample jars must adhere to the transportation requirements in WAC 314-55-085.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-096, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-096, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-097 ((~~Marijuana~~)) Cannabis waste disposal—Liquids and solids. (1) Solid and liquid wastes generated during ((~~marijuana~~))

na)) cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during ((marijuana)) cannabis production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of ((marijuana)) cannabis plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from ((marijuana)) cannabis flowers, trim and solid plant material used to create an extract (per WAC 314-55-104).

(ii) Waste solvents used in the ((marijuana)) cannabis process (per WAC 314-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any ((marijuana)) cannabis processing or quality assurance testing.

(iv) ((Marijuana)) Cannabis extract that fails to meet quality testing.

(b) ((Marijuana)) Cannabis wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A ((marijuana)) cannabis plant, useable ((marijuana)) cannabis, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) ((Marijuana)) Cannabis waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unuseable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, or laboratory. Disposal of the ((marijuana)) cannabis waste rendered unuseable must follow the methods under subsection (6) of this section.

Wastes that must be rendered unuseable prior to disposal include, but are not limited to, the following:

(a) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(b) ((Marijuana)) Cannabis plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(c) Solid ((marijuana)) cannabis sample plant waste possessed by third-party laboratories accredited by the WSLCB to test for quality assurance that must be disposed of.

(d) Other wastes as determined by the WSLCB.

(5) The allowable method to render ((marijuana)) cannabis plant waste unuseable is by grinding and incorporating the ((marijuana)) cannabis plant waste with other ground materials so the resulting mixture is at least ((fifty)) 50 percent ((nonmarijuana)) noncannabis waste by volume. Other methods to render ((marijuana)) cannabis waste unuseable must be approved by the WSLCB before implementation.

Material used to grind with the ((marijuana)) cannabis falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: ((~~Marijuana~~)) Cannabis waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

- (i) Food waste;
- (ii) Yard waste;
- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the WSLCB.

(b) Noncompostable mixed waste: ((~~Marijuana~~)) Cannabis waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the WSLCB.

(6) ((~~Marijuana~~)) Cannabis wastes rendered unuseable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the ((~~marijuana~~)) cannabis waste rendered unuseable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

- (i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.
- (ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the ((~~marijuana~~)) cannabis waste rendered unuseable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of ((~~marijuana~~)) cannabis waste rendered unuseable.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-097, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-097, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-097, 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, § 314-55-097, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-099 Standardized scales. (1) ((~~Marijuana~~)) Cannabis producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapter 16-662 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-099, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-099, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 17-12-032, filed 5/31/17, effective 8/31/17)

WAC 314-55-0995 Laboratory certification and accreditation requirements. The following requirements apply to third-party labs seeking certification by the WSLCB or its designee to do quality assurance testing on ((marijuana)) cannabis and ((marijuana)) cannabis products in Washington state, and for certified third-party laboratories (certified labs) to remain certified by the WSLCB. The requirements provided in this section are continuing requirements, and must be adhered to and maintained for a third-party lab to remain certified. The WSLCB may summarily suspend a lab's certification if a certified lab is found out of compliance with the requirements of this chapter.

(1) A third-party laboratory must be certified by the WSLCB or their vendor as meeting the WSLCB's accreditation and other requirements prior to conducting quality assurance tests required under this chapter. Certified labs must conspicuously display the certification letter received by the WSLCB upon certification at the lab's premises in a conspicuous location where a customer may observe it unobstructed in plain sight.

(2) A person with financial interest in a certified lab may not have direct or indirect financial interest in a licensed ((marijuana)) cannabis producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified lab must disclose to the WSLCB by affidavit any direct or indirect financial interest in a licensed ((marijuana)) cannabis producer or processor.

(3) The following provisions are conditions of certification for third-party testing labs. Failure to adhere to the below requirements may result in the suspension or revocation of certification.

(a) Each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director must possess the following minimum qualifications:

(i) A doctorate in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of two years' post-degree laboratory experience;

(ii) A master's degree in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of four years' of post-degree laboratory experience; or

(iii) A bachelor's degree in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of six years of post-education laboratory experience.

(b) Certified labs must follow the analytical requirements most current version of the *Cannabis Inflorescence and Leaf Monograph* pub-

lished by the *American Herbal Pharmacopoeia* or notify the WSLCB or its designee what alternative scientifically valid testing methodology the lab is following for each quality assurance test. Third-party validation by the WSLCB or its designee is required for any monograph or analytical method followed by a certified lab to ensure the methodology produces scientifically accurate results prior to use of alternative testing methods to conduct required quality assurance tests.

(c) 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.

(4) Certified labs must allow the WSLCB or the WSLCB's vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(5) As a condition of certification, labs must adopt and follow minimum good lab practices (GLPs) as provided in WAC 314-55-103, and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the WSLCB. The WSLCB or authorized third-party organization (WSLCB's designee) may conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The WSLCB or its designee will take immediate disciplinary action against any certified lab that fails to comply with the provisions of this chapter or falsifies records related to this section including, without limitation, revoking the certification of the certified lab.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-0995, filed 5/31/17, effective 8/31/17.]

AMENDATORY SECTION (Amending WSR 22-06-097, filed 3/2/22, effective 4/2/22)

WAC 314-55-101 Quality control sampling. (1) All licensed ((marijuana)) cannabis processors, producers, certified labs, and certified lab employees must comply with the sampling procedures described in this section, consistent with RCW 69.50.348. Noncompliance may result in disciplinary action as described in this chapter and applicable law.

(2) **Sample collection.** All samples of ((marijuana)) cannabis, useable ((marijuana)) cannabis, or ((marijuana-infused)) cannabis-infused products must be submitted to a certified lab for testing consistent with this chapter.

(a) All samples must be deducted, stored, and transported in a way that prevents contamination and degradation.

(b) To maximize sample integrity, samples must be placed in a sanitary container and stored in a location that prevents contamination and degradation.

(c) Each quality control sample container must be clearly marked "quality control sample" and labeled with the following information:

- (i) The certificate number and name of the certified lab receiving the sample;
 - (ii) The license number and registered trade name of the licensee sending the sample;
 - (iii) The date the sample was collected; and
 - (iv) The weight of the ((~~marijuana~~)) cannabis, useable ((~~marijuana~~)) cannabis, or ((~~marijuana-infused~~)) cannabis-infused product the sample was collected from.
- (d) Sampling and analysis requirements apply to all ((~~marijuana~~)) cannabis products regulated by the board.

(3) Additional sampling protocols for quantities of ((~~marijuana~~)) cannabis flower:

- (a) Samples must be of roughly equal weight not less than one gram each. Each sample must be deducted from a harvest as defined in WAC 314-55-010(14).
 - (b) For ((~~marijuana~~)) cannabis flower weighing up to 10 pounds, a minimum of eight samples must be taken.
 - (c) For ((~~marijuana~~)) cannabis flower weighing 10 pounds or more but less than 20 pounds, a minimum of 12 samples must be taken.
 - (d) For ((~~marijuana~~)) cannabis flower weighing 20 pounds or more but less than 30 pounds, a minimum of 15 samples must be taken.
 - (e) For ((~~marijuana~~)) cannabis flower weighing 30 pounds or more but less than 40 pounds, a minimum of 18 samples must be taken.
 - (f) For ((~~marijuana~~)) cannabis flower weighing 40 pounds or more but not more than 50 pounds, a minimum of 19 samples must be taken.
- (4) **Sample retrieval and transportation.** Certified labs may retrieve samples from a ((~~marijuana~~)) cannabis licensee's licensed premises and transport the samples directly to the lab.
- (5) Certified labs must reject or fail a sample if the lab has reason to believe the sample was not collected in the manner required by this section, adulterated in any way, contaminated with known or unknown solvents, or manipulated in a manner that violates the sampling protocols, limit tests, or action levels.

[Statutory Authority: RCW 69.50.345 and 69.50.348. WSR 22-06-097, § 314-55-101, filed 3/2/22, effective 4/2/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-101, filed 5/31/17, effective 8/31/17; WSR 16-11-110, § 314-55-101, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 22-06-097, filed 3/2/22, effective 4/2/22)

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

- (a) Certified labs must be certified to conduct the following fields of testing:
 - (i) Water activity;
 - (ii) 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 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.

(a) Potency analysis.

(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
Δ^9 -THC	1.0	1972-08-3
Δ^9 -THCA	1.0	23978-85-0

(B) Total THC;

(C) Total CBD.

(ii) Calculating total THC and total CBD.

(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 total delta-9 THC = M delta-9 THC + (0.877 × M delta-9 THCA).

(B) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: M total CBD = M CBD + (0.877 × M 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 (~~marijuana~~) 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 Escherichia coli (STEC)	<1
Salmonella spp.	<1
Processed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 ³
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:

Mycotoxin	µg/kg	CAS #
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 re-

sidual 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 ³	5000	67-64-1
Benzene	2.0	2	71-43-2
Butanes (Sum of Isomers)	5.0 * 10 ³	5000	
• n-butane			106-97-8
• 2-methylpropane (isobutane)			75-28-5
Cyclohexane	3.9 * 10 ³	3880	110-82-7
Chloroform	2.0	2	67-66-3
Dichloromethane	6.0 * 10 ²	600	75-09-2
Ethanol	5.0 * 10 ³	5000	64-17-5
Ethyl acetate	5.0 * 10 ³	5000	141-78-6
Heptanes (Single Isomer)	5.0 * 10 ³	5000	
• n-heptane			142-82-5
Hexanes (Sum of Isomers)	2.9 * 10 ²	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 ³	5000	67-63-0
Methanol	3.0 * 10 ³	3000	67-56-1
Pentanes (Sum of Isomers)	5.0 * 10 ³	5000	
• n-pentane			109-66-0
• methylbutane (isopentane)			78-78-4
• dimethylpropane (neopentane)			463-82-1
Propane	5.0 * 10 ³	5000	74-98-6
Toluene	8.9 * 10 ²	890	108-88-3
Xylenes (Sum of Isomers)	2.2 * 10 ³	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.

Metal	µg/g
Arsenic	2.0
Cadmium	0.82
Lead	1.2

Metal	µg/g
Mercury	0.40

(h) **Pesticide screening.** For purposes of pesticide screening, a sample and the related quantity of ((marijuana)) 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 ((marijuana)) cannabis products described below. Licensees and certified labs may opt to perform additional quality control tests on the same sample.

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

Product	Test(s) Required
((Marijuana)) <u>Cannabis</u> flower	1. Water activity testing 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening

(b) If ((marijuana)) 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) ((Marijuana)) 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
((Marijuana)) <u>Cannabis</u> mix	1. Water activity testing 2. Potency 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. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with a CO ₂ extractor like hash oil	1. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with ethanol	1. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening

Intermediate Product Type	Tests Required
Concentrate or extract made with approved food grade solvent	1. Potency 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. Potency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. Potency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening

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

End Product Type	Tests Required
Infused solid edible	1. Potency analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. Potency analysis
Infused topical	1. Potency analysis
((Marijuana)) <u>Cannabis</u> mix packaged (loose or rolled)	1. Potency analysis
((Marijuana)) <u>Cannabis</u> mix infused (loose or rolled)	1. Potency analysis
Concentrate or ((marijuana-infused)) <u>cannabis-infused</u> product for inhalation	1. Potency analysis

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

(5) Useable flower, a batch of ((~~marijuana~~)) cannabis concentrate, or a batch of ((~~marijuana-infused~~)) 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 ((~~marijuana~~)) cannabis flower and other material that will be extracted, and ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 (~~marijuana~~) 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 (~~marijuana~~) 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 (~~marijuana~~) cannabis flower, lots, or batches so long as the remediation method does not impart any toxic or harmful substance to the useable (~~marijuana, marijuana~~) cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused product. Remediation solvents or methods used on the (~~marijuana~~) cannabis product must be disclosed to:

(A) A licensed processor;

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

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

(D) The consumer upon request.

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

(iii) No remediated quantity of (~~marijuana~~) 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 (~~marijuana~~) 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 (~~marijuana~~) cannabis will not supersede the original compliance testing certificate of analysis.

(7) **Referencing.** Certified labs may reference samples for mycotoxins, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. 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 labs are not limited in the amount of useable (~~marijuana~~) cannabis and (~~marijuana~~) cannabis products they may have on their premises at any given time, but a certified lab must have records proving all (~~marijuana~~) cannabis and (~~marijuana-infused~~) 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 (~~marijuana~~) 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 ((marijuana)) cannabis or ((marijuana)) 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 ((marijuana)) 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 69.50.345 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.]

AMENDATORY SECTION (Amending WSR 22-06-097, filed 3/2/22, effective 4/2/22)

WAC 314-55-1025 Proficiency testing. (1) For the purposes of this chapter, the following definitions apply:

(a) "Field of testing" means the categories of subject matter the laboratory tests, such as pesticide, microbial, potency, residual solvent, heavy metal, mycotoxin, foreign matter, and moisture content detection.

(b) "Proficiency testing (PT)" means the analysis of samples by a laboratory obtained from providers where the composition of the sample is unknown to the laboratory performing the analysis and the results of the analysis are used in part to evaluate the laboratory's ability to produce precise and accurate results.

(c) "Proficiency testing (PT) program" means an operation offered by a provider to detect a laboratory's ability to produce valid results for a given field of testing.

(d) "Provider" means a third-party company, organization, or entity not associated with certified laboratories or a laboratory seeking certification that operates an approved PT program and provides samples for use in PT testing.

(e) "Vendor" means an organization(s) approved by the board to certify laboratories for ((marijuana)) cannabis testing, approve PT programs, and perform on-site assessments of laboratories.

(2) The board or its vendor determines the sufficiency of PTs and maintains a list of approved PT programs. Laboratories may request authorization to conduct PT through other PT programs but must obtain approval for the PT program from the board or the board's vendor prior to conducting PT. The board may add the newly approved PT program to the list of approved PT programs as appropriate.

(3) As a condition of certification, laboratories must participate in PT and achieve a passing score for each field of testing for which the lab will be or is certified.

(4) A laboratory must successfully complete a minimum of one round of PT for each field of testing the lab seeks to be certified for and provide proof of the successful PT results prior to initial certification.

(5) (a) A certified laboratory must participate in a minimum of two rounds of PT per year for each field of testing to maintain its certification.

(b) To maintain certification, the laboratory must achieve a passing score, on an ongoing basis, in a minimum of two out of three successive rounds of PT. At least one of the scores must be from a round of PT that occurs within six months prior to the laboratory's certification renewal date.

(6) If the laboratory fails to achieve a passing score on at least 80 percent of the analytes in any proficiency test, the test is considered a failure. If the PT provider provides a pass/fail on a per analyte basis but not on the overall round of PT the lab participates in, the pass/fail evaluation for each analyte will be used to evaluate whether the lab passed 80 percent of the analytes. If the PT provider does not provide individual acceptance criteria for each analyte, the following criteria will be applied to determine whether the lab achieves a passing score for the round of PT:

(a) +/- 30% recovery from the reference value for residual solvent testing; or

(b) +/- 3 z or 3 standard deviations from the reference value for all other fields of testing.

(7) If a laboratory fails a round of PT or reports a false negative on a micro PT, the laboratory must investigate the root cause of the laboratory's performance and establish a corrective action report for each unsatisfactory analytical result. The corrective action report must be kept and maintained by the laboratory for a period of three years, available for review during an on-site assessment or inspection, and provided to the board or the board's vendor upon request.

(8) Laboratories are responsible for obtaining PT samples from vendors approved by the board or the board's vendor. Laboratories are responsible for all costs associated with obtaining PT samples and rounds of PT.

(9) The laboratory must manage, analyze and report all PT samples in the same manner as customer samples including, but not limited to, adhering to the same sample tracking, sample preparation, analysis methods, standard operating procedures, calibrations, quality control, and acceptance criteria used in testing customer samples.

(10) The laboratory must authorize the PT provider to release all results at the same time, whether pass or fail, to the laboratory and the board, or the board's vendor.

(11) The board may require the laboratory to submit raw data and all photographs of plated materials along with the report of analysis of PT samples. The laboratory must keep and maintain all raw data and all photographs of plated materials from PT for a period of three years.

(12) The board may waive proficiency tests for certain fields of testing if PT samples or PT programs are not readily available or for other valid reasons as determined by the board.

(13) (a) The board will suspend a laboratory's certification if the laboratory fails to maintain a passing score on an ongoing basis in two out of three successive PT studies. The board may reinstate a laboratory's suspended certification if the laboratory successfully analyzes PT samples from the board or the board's vendor approved PT provider, so long as the supplemental PT studies are performed at least 15 days apart from the analysis date of one PT study to the analysis date of another PT study.

(b) The board will suspend a laboratory's certification if the laboratory fails two consecutive rounds of PT. The board may reinstate a laboratory's suspended certification once the laboratory conducts an investigation, provides the board a deficiency report identifying the root cause of the failed PT, and successfully analyzes PT samples from a board or board's vendor approved PT provider. The supplemental PT studies must be performed at least 15 days apart from the analysis date of one PT study to the analysis date of another PT study.

(14) If a laboratory fails to remediate and have its certification reinstated under subsection (13) (a) or (b) of this section within six months of the suspension, the laboratory must reapply for certification as if the laboratory was never certified previously.

(15) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension as provided in chapter 34.05 RCW.

[Statutory Authority: RCW 69.50.345 and 69.50.348. WSR 22-06-097, § 314-55-1025, filed 3/2/22, effective 4/2/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-1025, filed 5/31/17, effective 8/31/17.]

AMENDATORY SECTION (Amending WSR 17-12-032, filed 5/31/17, effective 8/31/17)

WAC 314-55-103 Good laboratory practice checklist. A third-party testing lab must be certified by the WSLCB or its vendor as meeting the WSLCB's accreditation and other requirements prior to conducting required quality assurance tests. The following checklist will be used by the WSLCB or its vendor to certify third-party testing labs:

ORGANIZATION Completed by: Reviewed by:	Document Reference	Y	N	NA	Comments
1. The laboratory or the organization of which it is a part of shall be an entity that can be held legally responsible.	-	-	-	-	-
2. The laboratory conducting third-party testing shall have no financial interest in a licensed producer or processor for which testing is being conducted.	-	-	-	-	-
If the laboratory is part of an organization performing activities other than testing, the responsibilities of key personnel in the organization that have an involvement or influence on the testing activities of the laboratory shall be defined in order to identify potential conflicts of interest.	-	-	-	-	-
3. The laboratory shall have policies and procedures to ensure the protection of its client's confidential information and proprietary rights, including procedures for protecting the electronic storage and transmission of results.	-	-	-	-	-

ORGANIZATION Completed by: Reviewed by:	Document Reference	Y	N	NA	Comments
4. In every instance where the lab references certification status they shall clearly indicate which tests they are currently certified for.	-	-	-	-	-
5. The laboratory is responsible for all costs of initial certification and ongoing site assessments.	-	-	-	-	-
6. The laboratory must agree to site assessments every year for the first three years to maintain certification. Beginning year four of certification, on-site assessments will occur every two years to maintain certification.	-	-	-	-	-
7. The laboratory must allow WSLCB staff or their representative to conduct physical visits and check I-502 related laboratory activities at any time.	-	-	-	-	-
8. The laboratory must report all test results directly into WSLCB's traceability system within twenty-four hours of completion. Labs must also record in the traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the customer.	-	-	-	-	-

HUMAN RESOURCES Completed by: Reviewed by:	Document Reference	Y	N	NA	Comments
9a. Job descriptions for owners and all employees. A written and documented system detailing the qualifications of each member of the staff including any specific training requirements applicable to analytical methods.	-	-	-	-	-
b. Specialized training such as by vendors, classes granting CEUs, etc., shall be documented in each training file.	-	-	-	-	-
10. Qualifications of owners and staff: CVs for staff on file.	-	-	-	-	-
a. Have technical management which has overall responsibility for the technical operations and the provision of the resources needed to ensure the required quality of laboratory operations.	-	-	-	-	-
b. Documentation that the scientific director meets the requirements of WSLCB rules.	-	-	-	-	-
c. Chain of command, personnel organization/flow chart, dated and signed by the laboratory director.	-	-	-	-	-
d. Written documentation of delegation of responsibilities in the absence of the scientific director and management staff (assigned under chapter 314-55 WAC as related to quality assurance testing).	-	-	-	-	-
e. Documentation of employee competency (DOC): Prior to independently analyzing samples, and on an annual, ongoing basis, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls). Dated and signed by the laboratory director.	-	-	-	-	-
f. The laboratory management shall ensure the competence of all who operate specific equipment, perform tests and/or calibrations, evaluate results, and sign test reports and calibration certificates.	-	-	-	-	-
g. When using staff who are undergoing training, appropriate supervision shall be provided.	-	-	-	-	-
h. Personnel performing specific tasks shall be qualified on the basis of appropriate education, training, experience and/or demonstrated skills, as necessary.	-	-	-	-	-

HUMAN RESOURCES Completed by: Reviewed by:	Document Reference	Y	N	NA	Comments
i. The management shall authorize specific personnel to perform particular types of sampling, test and/or calibration, to issue test reports and calibration certificates, to give opinions and interpretations and to operate particular types of equipment.	-	-	-	-	-
j. The laboratory shall maintain records of the relevant authorization(s), competence, educational and professional qualifications, training, skills and experience of all technical personnel, including contracted personnel.	-	-	-	-	-
k. Successful training (in-house courses are acceptable) in specific methodologies used in the laboratory shall be documented.	-	-	-	-	-
l. Designate a quality manager (however named) who, irrespective of other duties and responsibilities, shall have defined responsibility and authority for ensuring that the quality system is implemented and followed; the quality manager shall have direct access to the highest level of management at which decisions are made on laboratory policy or resources.	-	-	-	-	-
m. The laboratory shall delegate responsibilities for key managerial personnel to be acted upon in cases of absence or unavailability.	-	-	-	-	-
n. The laboratory shall provide adequate supervision of testing staff, including trainees, by persons familiar with methods and procedures, purpose of each test and/or calibration, and with the assessment of the test or calibration results.	-	-	-	-	-
11. Standard operating procedure for the following:	-	-	-	-	-
a. Instructions on regulatory inspection and preparedness.	-	-	-	-	-
b. Instruction on law enforcement interactions.	-	-	-	-	-
c. Information on U.S. federal laws, regulations, and policies relating to individuals employed in these operations, and the implications of these for such employees.	-	-	-	-	-
d. Written and documented system of employee training on hazards (physical and health) of chemicals in the workplace, including prominent location of MSDS or SDS sheets and the use of appropriate PPE.	-	-	-	-	-
e. Written and documented system on the competency of personnel on how to handle chemical spills and appropriate action; spill kit on-site and well-labeled, all personnel know the location and procedure.	-	-	-	-	-
f. Information on how employees can access medical attention for chemical or other exposures, including follow-up examinations without cost or loss of pay.	-	-	-	-	-
g. Biosafety at a minimum covering sterilization and disinfection procedures and sterile technique training.	-	-	-	-	-
STANDARD OPERATING PROCEDURES	Document Reference	Y	N	NA	Comments
12. As appropriate, laboratory operations covered by procedures shall include, but not be limited to, the following:	-	-	-	-	-
a. Environmental, safety and health activities;	-	-	-	-	-
b. Sample shipping and receipt;	-	-	-	-	-
c. Laboratory sample chain of custody and material control;	-	-	-	-	-
d. Notebooks/logbooks;	-	-	-	-	-
e. Sample storage;	-	-	-	-	-
f. Sample preparation;	-	-	-	-	-

STANDARD OPERATING PROCEDURES		Document Reference	Y	N	NA	Comments
g.	Sample analysis;	-	-	-	-	-
h.	Standard preparation and handling;	-	-	-	-	-
i.	Postanalysis sample handling;	-	-	-	-	-
j.	Control of standards, reagents and water quality;	-	-	-	-	-
k.	Cleaning of glassware;	-	-	-	-	-
l.	Waste minimization and disposition.	-	-	-	-	-
13.	The following information is required for procedures as appropriate to the scope and complexity of the procedures or work requested:	-	-	-	-	-
a.	Scope (e.g., parameters measured, range, matrix, expected precision, and accuracy);	-	-	-	-	-
b.	Unique terminology used;	-	-	-	-	-
c.	Summary of method;	-	-	-	-	-
d.	Interferences/limitations;	-	-	-	-	-
e.	Approaches to address background corrections;	-	-	-	-	-
f.	Apparatus and instrumentation;	-	-	-	-	-
g.	Reagents and materials;	-	-	-	-	-
h.	Hazards and precautions;	-	-	-	-	-
i.	Sample preparation;	-	-	-	-	-
j.	Apparatus and instrumentation setup;	-	-	-	-	-
k.	Data acquisition system operation;	-	-	-	-	-
l.	Calibration and standardization;	-	-	-	-	-
m.	Procedural steps;	-	-	-	-	-
n.	QC parameters and criteria;	-	-	-	-	-
o.	Statistical methods used;	-	-	-	-	-
p.	Calculations;	-	-	-	-	-
q.	Assignment of uncertainty;	-	-	-	-	-
r.	Forms used in the context of the procedure.	-	-	-	-	-
s.	Document control with master list identifying the current revision status of documents.	-	-	-	-	-
FACILITIES AND EQUIPMENT		Document Reference	Y	N	NA	Comments
14.	Allocation of space: Adequate for number of personnel and appropriate separation of work areas.	-	-	-	-	-
15.	Arrangement of space.	-	-	-	-	-
a.	Allows for appropriate work flow, sampling, lab space separate from office and break areas.	-	-	-	-	-
b.	Employee bathroom is separate from any laboratory area.	-	-	-	-	-
16.	Adequate eyewash/safety showers/sink.	-	-	-	-	-
17.	Procurement controls.	-	-	-	-	-
a.	The laboratory shall have procedure(s) for the selection and purchasing of services and supplies it uses that affect the quality of the tests and/or calibrations. Procedures covering reagents and laboratory consumables shall exist for the purchase, receipt, storage, and disposition of expired materials.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
b. The laboratory shall ensure that purchased supplies and reagents and consumable materials that affect the quality of tests and/or calibrations are inspected or otherwise verified as complying with standard specifications or requirements defined in the methods for the tests and/or calibrations concerned.	-	-	-	-	-
i. Reagents and standards shall be inspected, dated and initialed upon receipt, and upon opening.	-	-	-	-	-
ii. Calibration standards and analytical reagents shall have an expiration or reevaluation date assigned.	-	-	-	-	-
iii. Solutions shall be adequately identified to trace back to preparation documentation.	-	-	-	-	-
c. Prospective suppliers shall be evaluated and selected on the basis of specified criteria.	-	-	-	-	-
d. Processes to ensure that approved suppliers continue to provide acceptable items and services shall be established and implemented.	-	-	-	-	-
18. Subcontracting.	-	-	-	-	-
a. The laboratory shall advise the customer of the subcontract arrangement in writing, including the subcontractors' accreditation credentials under chapters 69.50 RCW and 314-55 WAC.	-	-	-	-	-
b. The laboratory shall maintain a register of all subcontractors that it uses for tests and/or calibrations and a record of the evidence of compliance with chapter 314-55 WAC for the work in question.	-	-	-	-	-
c. When there are indications that subcontractors knowingly supplied items or services of substandard quality, this information shall be forwarded to appropriate management for action.	-	-	-	-	-
19. Utilities (items verified upon on-site inspection).	-	-	-	-	-
a. Electrical:	-	-	-	-	-
i. Outlets: Adequate, unobstructed, single-use, multiplug adaptors with surge control;	-	-	-	-	-
ii. Single-use extension cords;	-	-	-	-	-
iii. Ground fault circuit interrupters near wet areas.	-	-	-	-	-
b. Plumbing:	-	-	-	-	-
i. Appropriateness of sink usage: Separate sinks for work/personal use;	-	-	-	-	-
ii. Adequate drainage from sinks or floor drains;	-	-	-	-	-
iii. Hot and cold running water.	-	-	-	-	-
c. Ventilation:	-	-	-	-	-
i. Areas around solvent use or storage of solvents or waste solvents;	-	-	-	-	-
ii. Vented hood for any microbiological analysis - Class II Type A biosafety cabinet as applicable.	-	-	-	-	-
iii. Fume hood with appropriate ventilation.	-	-	-	-	-
d. Vacuum: Appropriate utilities/traps for prevention of contamination (as applicable).	-	-	-	-	-
e. Shut-off controls: Located outside of the laboratory.	-	-	-	-	-
20. Waste disposal: Appropriate for the type of waste and compliant with WAC 314-55-097 ((Marijuana) Cannabis waste disposal—Liquids and solids.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
21. Equipment. Equipment and/or systems requiring periodic maintenance shall be identified and records of major equipment shall include:	-	-	-	-	-
a. Name;	-	-	-	-	-
b. Serial number or unique identification from name plate;	-	-	-	-	-
c. Date received and placed in service;	-	-	-	-	-
d. Current location;	-	-	-	-	-
e. Condition at receipt;	-	-	-	-	-
f. Manufacturer's instructions;	-	-	-	-	-
g. Date of calibration or date of next calibration;	-	-	-	-	-
h. Maintenance;	-	-	-	-	-
i. History of malfunction.	-	-	-	-	-
22. Maintenance.	-	-	-	-	-
a. Documented evidence of routine preventive maintenance and calibration of equipment including, but not limited to: Thermometer, pipette, analytical balances, and additional analytical equipment.	-	-	-	-	-
i. Calibration programs shall be established for key quantities or values of the instruments where these properties have a significant effect on the results.	-	-	-	-	-
ii. Before being placed into service, equipment, including equipment used for sampling, shall be calibrated or checked to establish that it meets the laboratory's specification requirements and complies with the relevant standard specifications.	-	-	-	-	-
iii. Equipment that has been subjected to overloading or mishandling, gives suspect results, or has been shown to be defective or outside of specified limits, shall be taken out of service. Such equipment shall be isolated to prevent its use or clearly labeled or marked as being out-of-service until it has been repaired and shown by calibration or test to perform correctly.	-	-	-	-	-
b. Documentation of a maintenance schedule and reviewed by the laboratory director.	-	-	-	-	-
i. Calibration procedures shall specify frequency of calibration checks.	-	-	-	-	-
ii. Instruments that are routinely calibrated shall be verified daily or prior to analyzing samples (as applicable).	-	-	-	-	-
iii. Acceptance criteria shall be determined, documented and used.	-	-	-	-	-
iv. When possible, any external calibration service (metrological laboratory) used shall be a calibration laboratory accredited to ISO/IEC 17025:2005 by a recognized accreditation body.	-	-	-	-	-
v. Laboratories shall demonstrate, when possible, that calibrations of critical equipment and hence the measurement results generated by that equipment, relevant to their scope of accreditation, are traceable to the SI through an unbroken chain of calibrations.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
vi. External calibration services shall, wherever possible, be obtained from providers accredited to one of the following: ISO/IEC 17025, ISO Guide 34, an ILAC recognized signatory, a CIPM recognized National Metrology Institute (NMI), or a state weights and measures facility that is part of the NIST laboratory metrology program. Calibration certificates shall be endorsed by a recognized accreditation body symbol or otherwise make reference to accredited status by a specific, recognized accreditation body, or contain endorsement by the NMI. Certificates shall indicate traceability to the SI or reference standard and include the measurement result with the associated uncertainty of measurement.	-	-	-	-	-
vii. Where traceability to the SI is not technically possible or reasonable, the laboratory shall use certified reference materials provided by a competent supplier.	-	-	-	-	-
viii. Calibrations performed in-house shall be documented in a manner that demonstrates traceability via an unbroken chain of calibrations regarding the reference standard/material used, allowing for an overall uncertainty to be estimated for the in-house calibration.	-	-	-	-	-
ix. Calibrations shall be repeated at appropriate intervals, the length of which can be dependent on the uncertainty required, the frequency of use and verification, the manner of use, stability of the equipment, and risk of failure considerations.	-	-	-	-	-
x. Periodic verifications shall be performed to demonstrate the continued validity of the calibration at specified intervals between calibrations. The frequency of verifications can be dependent on the uncertainty required, the frequency of use, the manner of use, stability of the equipment, and risk of failure considerations.	-	-	-	-	-
c. Documentation of curative maintenance in logbook, signed and dated by laboratory director.	-	-	-	-	-
d. Evidence of temperature monitoring for equipment requiring specific temperature ranges.	-	-	-	-	-
e. Test and calibration equipment, including both hardware and software, shall be safeguarded from adjustments which would invalidate the test and/or calibration results.	-	-	-	-	-
f. Decontamination and cleaning procedures for:	-	-	-	-	-
i. Instruments;	-	-	-	-	-
ii. Bench space; and	-	-	-	-	-
iii. Ventilation hood/microbial hood.	-	-	-	-	-
g. Documentation of adequacy of training of personnel and responsibility for each maintenance task.	-	-	-	-	-
h. The organization shall describe or reference how periodic preventive and corrective maintenance of measurement or test equipment shall be performed to ensure availability and satisfactory performance of the systems.	-	-	-	-	-
23. Computer systems (items verified upon on-site inspection).	-	-	-	-	-
a. Adequate for sample tracking.	-	-	-	-	-
b. Adequate for analytical equipment software.	-	-	-	-	-
c. Software control requirements applicable to both commercial and laboratory developed software shall be developed, documented, and implemented.	-	-	-	-	-
d. In addition, procedures for software control shall address the security systems for the protection of applicable software.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
e. For laboratory-developed software, a copy of the original program code shall be:	-	-	-	-	-
i. Maintained;	-	-	-	-	-
ii. All changes shall include a description of the change, authorization for the change;	-	-	-	-	-
iii. Test data that validates the change.	-	-	-	-	-
f. Software shall be acceptance tested when installed, after changes, and periodically during use, as appropriate.	-	-	-	-	-
g. Software testing shall include performing manual calculations or checking against another software product that has been previously tested, or by analysis of standards.	-	-	-	-	-
h. The version and manufacturer of the software shall be documented.	-	-	-	-	-
i. Commercially available software may be accepted as supplied by the vendor. For vendor supplied instrument control/data analysis software, acceptance testing may be performed by the laboratory.	-	-	-	-	-
24. Security.	-	-	-	-	-
a. Written facility security procedures during operating and nonworking hours.	-	-	-	-	-
b. Roles of personnel in security.	-	-	-	-	-
c. SOP for controlled access areas and personnel who can access.	-	-	-	-	-
25. Control of records.	-	-	-	-	-
a. The laboratory shall establish and maintain procedures for identification, collection, indexing, access, filing, storage, maintenance and disposal of quality and technical records.	-	-	-	-	-
b. All records shall be legible and shall be stored and retained in such a way that they are readily retrievable in facilities that provide a suitable environment to prevent damage or deterioration and to prevent loss.	-	-	-	-	-
c. Records must be retained for a period of three years.	-	-	-	-	-
d. All records shall be held secure and in confidence.	-	-	-	-	-
e. The laboratory shall have procedures to protect and back-up records stored electronically and to prevent unauthorized access to or amendment of these records.	-	-	-	-	-
f. The laboratory shall retain records of original observations, derived data and sufficient information to establish an audit trail, calibration records, staff records and a copy of each test report or calibration certificate issued, for a defined period.	-	-	-	-	-
g. The records for each test or calibration shall contain sufficient information to facilitate, if possible, identification of factors affecting the uncertainty and to enable the test or calibration to be repeated under conditions as close as possible to the original.	-	-	-	-	-
h. The records shall include the identity of personnel responsible for the sampling, performance of each test and/or calibration and checking of results.	-	-	-	-	-
i. Observations, data and calculations shall be recorded at the time they are made and shall be identifiable to the specific task.	-	-	-	-	-
j. When mistakes occur in records, each mistake shall be lined out, not erased or made illegible or deleted, and the correct value entered alongside.	-	-	-	-	-

FACILITIES AND EQUIPMENT		Document Reference	Y	N	NA	Comments
k.	All such alterations or corrections to records shall be signed or initialed and dated by the person making the correction.	-	-	-	-	-
l.	In the case of records stored electronically, equivalent measures shall be taken to avoid loss or change of original data.	-	-	-	-	-
m.	All entries to hard copy laboratory records shall be made using indelible ink. No correction fluid may be used on original laboratory data records.	-	-	-	-	-
n.	Laboratories shall establish and maintain a data review process beginning at sample receipt and extending through the report process. The data review process shall be an independent review, conducted by a qualified individual other than the analyst.	-	-	-	-	-
o.	The review process shall be documented before data are reported.	-	-	-	-	-
26.	Storage.	-	-	-	-	-
a.	Appropriate and adequate for sample storage over time. The laboratory shall monitor, control and record environmental conditions as required by the relevant specifications, methods and procedures or where they influence the quality of the results. Due attention shall be paid, for example, to biological sterility, dust, electromagnetic disturbances, humidity, electrical supply, temperature, and sound and vibration levels, as appropriate to the technical activities concerned.	-	-	-	-	-
b.	Adequate storage of chemical reference standards.	-	-	-	-	-
c.	Appropriate storage of any reagents: Fireproof cabinet, separate cabinet for storage of any acids.	-	-	-	-	-
d.	Appropriate safe and secure storage of documents etc., archiving, retrieval of, maintenance of and security of data for a period of three years.	-	-	-	-	-

QA PROGRAM AND TESTING		Document Reference	Y	N	NA	Comments
27.	Sampling/sample protocols must be consistent with chapter 314-55 WAC, written and approved by the laboratory director, and must include documented training.	-	-	-	-	-
a.	Demonstrate adequacy of the chain-of-custody, including: Tracking upon receipt of sample including all personnel handling the sample and documenting condition of the sample through a macroscopic and foreign matter inspection.	-	-	-	-	-
b.	Macroscopic and foreign matter inspection - Fit for purpose test. Scientifically valid testing methodology: Either AHP monograph compliant or other third-party validation.	-	-	-	-	-
c.	Failed inspection of product: Tracking and reporting.	-	-	-	-	-
d.	Return of failed product documentation and tracking.	-	-	-	-	-
e.	Disposal of used/unused samples documentation.	-	-	-	-	-
f.	Sample preparation, extraction and dilution SOP.	-	-	-	-	-
g.	Demonstration of recovery for samples in various matrices (SOPs):	-	-	-	-	-
i.	Plant material - Flower;	-	-	-	-	-
ii.	Edibles (solid and liquid meant to be consumed orally);	-	-	-	-	-
iii.	Topical;	-	-	-	-	-
iv.	Concentrates.	-	-	-	-	-
28.	Data protocols.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
a. Calculations for quantification of cannabinoid content in various matrices - SOPs.	-	-	-	-	-
b. Determination of the range for reporting the quantity (LOD/LOQ) data review or generation.	-	-	-	-	-
c. Reporting of data: Certificates of analysis (CA) - Clear and standardized format for consumer reporting.	-	-	-	-	-
d. Each test report shall include at least the following information, unless the laboratory has valid reasons for not doing so:	-	-	-	-	-
i. A title (e.g., "Test Report" or "Certificate of Analysis");	-	-	-	-	-
ii. The name and address of the laboratory, and the location where the tests were carried out, if different from the address of the laboratory;	-	-	-	-	-
iii. Unique identification of the test report certificate (such as the serial number), and on each page an identification in order to ensure that the page is recognized as a part of the test report or calibration certificate, and a clear identification of the end of the test report or calibration certificate;	-	-	-	-	-
iv. The name and address of the customer;	-	-	-	-	-
v. Identification of the method used;	-	-	-	-	-
vi. A description of, the condition of, and unambiguous identification of the item(s) tested;	-	-	-	-	-
vii. The date of receipt of the test item(s) where this is critical to the validity and application of the results, and the date(s) of performance of the test or calibration;	-	-	-	-	-
viii. Reference to the sampling plan and procedures used by the laboratory or other bodies where these are relevant to the validity or application of the results;	-	-	-	-	-
ix. The test results with, where appropriate, the units of measurement;	-	-	-	-	-
x. The name(s), function(s) and signature(s) or equivalent identification of person(s) authorizing the test report or certificate; and	-	-	-	-	-
xi. Where relevant, a statement to the effect that the results relate only to the items tested or calibrated.	-	-	-	-	-
e. Material amendments to a test report or calibration certificate after issue shall be made only in the form of a further document, or data transfer, which includes the statement: "Supplement to Test Report (or Calibration Certificate), serial number... (or as otherwise identified)," or an equivalent form of wording.	-	-	-	-	-
f. When it is necessary to issue a complete new test report or calibration certificate, this shall be uniquely identified and shall contain a reference to the original that it replaces.	-	-	-	-	-
g. If the laboratory chooses to include a reference to their I-502 certification on their test report, any test results not covered under I-502 certification shall be clearly identified on the report.	-	-	-	-	-
h. Documentation that the value reported in the CA is within the range and limitations of the analytical method.	-	-	-	-	-
i. Documentation that qualitative results (those below the LOQ but above the LOD) are reported as "trace," or with a nonspecific (numerical) designation.	-	-	-	-	-
j. Documentation that the methodology has the specificity for the degree of quantitation reported. Final reports are not quantitative to any tenths or hundredths of a percent.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
k. Use of appropriate "controls": Documentation of daily use of positive and negative controls that challenge the linearity of the curve; and/or an appropriate "matrix blank" and control with documentation of the performance for each calibration run.	-	-	-	-	-
29. Chemical assay procedure/methodology.	-	-	-	-	-
30. Quality Control (QC):	-	-	-	-	-
a. Documentation of use of an appropriate internal standard for any quantitative measurements as applicable to the method.	-	-	-	-	-
b. Appropriate reference standards for quantification of analytes, performing and documenting a calibration curve with each analysis.	-	-	-	-	-
i. Reference materials shall, where possible, be traceable to SI units of measurement, or to certified reference materials. Internal reference materials shall be checked for accuracy as far as is technically and economically practicable.	-	-	-	-	-
ii. The laboratory shall create and follow procedures for safe handling, transport, storage and use of reference standards and reference materials in order to prevent contamination or deterioration and in order to protect their integrity.	-	-	-	-	-
iii. Reference materials shall have a certificate of analysis that documents traceability to a primary standard or certified reference material and associated uncertainty, when possible. When applicable, the certificate must document the specific NIST SRM® or NMI certified reference material used for traceability.	-	-	-	-	-
c. Demonstration of calibration curve r^2 value of no less than 0.995 with a minimum of four points which bracket the expected sample concentration range.	-	-	-	-	-
i. The calibration curve shall be verified by preparing an independently prepared calibration standard (from neat materials) or with a standard from an independent source. Acceptance criteria for the standard calibration curve and the independent calibration verification standard shall be documented.	-	-	-	-	-
ii. Instrument calibration/standardization shall be verified each 24-hour period of use, or at each instrument start-up if the instrument is restarted during the 24-hour period, by analysis of a continuing calibration verification standard. Acceptance criteria shall be documented.	-	-	-	-	-
iii. Calibration or working quantification ranges shall encompass the concentrations reported by the laboratory. Continuing calibration verification standards and continuing calibration blanks shall be analyzed in accordance with the specified test methods. Acceptance criteria shall be documented.	-	-	-	-	-
d. Assuring the quality of test results.	-	-	-	-	-
i. The laboratory shall have quality control procedures for monitoring the validity of tests and calibrations undertaken.	-	-	-	-	-
ii. The resulting data shall be recorded in such a way that trends are detectable and, where practicable, statistical techniques shall be applied to the reviewing of the results.	-	-	-	-	-
iii. This monitoring shall be planned and reviewed and may include, but not be limited to, the following:	-	-	-	-	-
A. Regular use of certified reference materials and/or internal quality control using secondary reference materials;	-	-	-	-	-

QA PROGRAM AND TESTING		Document Reference	Y	N	NA	Comments
B.	Participation in interlaboratory comparison or proficiency-testing programs;	-	-	-	-	-
C.	Replicate tests or calibrations using the same or different methods;	-	-	-	-	-
D.	Retesting or recalibration of retained items;	-	-	-	-	-
E.	Correlation of results for different characteristics of an item.	-	-	-	-	-
iv.	Quality control data shall be analyzed and, where they are found to be outside predefined criteria, planned actions shall be taken to correct the problem and to prevent incorrect results from occurring.	-	-	-	-	-
v.	The laboratory shall determine, where feasible, the accuracy and precision of all analyses performed.	-	-	-	-	-
vi.	Acceptance limits for each method shall be established based on statistical evaluation of the data generated by the analysis of quality control check samples, unless specific acceptance limits are established by the method.	-	-	-	-	-
vii.	Control charts or quality control data bases shall be used to record quality control data and compare them with acceptance limits.	-	-	-	-	-
viii.	Procedures shall be used to monitor trends and the validity of test results.	-	-	-	-	-
31.	Proficiency.	-	-	-	-	-
a.	Participation in approved PT programs for each field of testing.	-	-	-	-	-
b.	Passing PT results for two consecutive PTs.	-	-	-	-	-
c.	Documentation of investigation for all failed PTs.	-	-	-	-	-
32.	Method validation: Scientifically valid testing methodology: AHP monograph compliant, other third-party validation or the current version of a standard method. The following requirements are applied to other third-party validation:	-	-	-	-	-
a.	The laboratory shall validate nonstandard methods, laboratory-designed/developed methods, standard methods used outside their intended scope, and amplifications and modifications of standard methods to confirm that the methods are fit for the intended use.	-	-	-	-	-
b.	The validation shall be as extensive as is necessary to meet the needs of a given application or field of application.	-	-	-	-	-
c.	The laboratory shall record the results obtained, the procedure used for the validation, and a statement as to whether the method is fit for the intended use.	-	-	-	-	-
d.	The customer shall be informed as to the method chosen.	-	-	-	-	-
e.	The laboratory shall confirm that it can properly operate standard methods before introducing the tests or calibrations. If the standard method changes, the confirmation shall be repeated.	-	-	-	-	-
f.	Deviation from test and calibration methods shall occur only if the deviation has been documented, technically justified, authorized, and accepted by the customer.	-	-	-	-	-
g.	Validation shall be documented and include the following elements as applicable:	-	-	-	-	-
i.	Minimum acceptance criteria;	-	-	-	-	-
ii.	Analyte specificity;	-	-	-	-	-
iii.	Linearity;	-	-	-	-	-
iv.	Range;	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
v. Accuracy;	-	-	-	-	-
vi. Precision;	-	-	-	-	-
vii. Detection limit;	-	-	-	-	-
viii. Quantification limit;	-	-	-	-	-
ix. Stability of samples and reagents interlaboratory precision;	-	-	-	-	-
x. Analysis robustness;	-	-	-	-	-
xi. Presence of QC samples;	-	-	-	-	-
xii. Use of appropriate internal reference standard;	-	-	-	-	-
xiii. Daily monitoring of the response of the instrument;	-	-	-	-	-
h. Validation shall be performed for matrix extensions for each type of product tested, including data review of recovery for:	-	-	-	-	-
i. Solvent-based extract;	-	-	-	-	-
ii. CO ₂ extraction or other "hash oil";	-	-	-	-	-
iii. Extract made with food grade ethanol;	-	-	-	-	-
iv. Extract made with food grade glycerin or propylene glycol;	-	-	-	-	-
v. Infused liquids;	-	-	-	-	-
vi. Infused solids;	-	-	-	-	-
vii. Infused topical preparations;	-	-	-	-	-
viii. Other oils, butter or fats.	-	-	-	-	-
33. Estimation of uncertainty of measurement.	-	-	-	-	-
a. Testing laboratories shall have and shall apply procedures for estimating uncertainty of measurement. The laboratory shall at least attempt to identify all the components of uncertainty and make a reasonable estimation, and shall ensure that the form of reporting of the result does not give a wrong impression of the uncertainty. Reasonable estimation shall be based on knowledge of the performance of the method and on the measurement scope and shall make use of, for example, previous experience and validation data.	-	-	-	-	-
b. In those cases where a well-recognized test method specifies limits to the values of the major sources of uncertainty of measurement and specifies the form of presentation of calculated results, the laboratory is considered to have satisfied this clause by following the test method and reporting instructions.	-	-	-	-	-
c. When estimating the uncertainty of measurement, all uncertainty components which are of importance in the given situation shall be taken into account using appropriate methods of analysis.	-	-	-	-	-
d. Sources contributing to the uncertainty include, but are not necessarily limited to, the reference standards and reference materials used, methods and equipment used, environmental conditions, properties and condition of the item being tested or calibrated, and the operator.	-	-	-	-	-
e. Test methods are classified as either qualitative or quantitative. Qualitative tests are defined as having nonnumerical results. Although estimation of measurement uncertainty is not needed for these tests, laboratories are expected to have an understanding of the contributors to variability of the results. For quantitative tests, laboratories shall determine measurement uncertainty using appropriate statistical techniques.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
f. Laboratories shall make independent estimations of uncertainty for tests performed on samples with significantly different matrices.	-	-	-	-	-
g. Laboratories are required to re-estimate measurement uncertainty when changes to their operations are made that may affect sources of uncertainty.	-	-	-	-	-
h. When reporting measurement uncertainty, the test report shall include the coverage factor and confidence level used in the estimations (typically k = approximately 2 at the 95% confidence level).	-	-	-	-	-
34. Other methods.	-	-	-	-	-
a. Validated microbiological methods fit for purpose.	-	-	-	-	-
b. Microbial contaminants within limits as directed by WSLCB.	-	-	-	-	-
c. Moisture content testing fit for purpose. Scientifically valid testing methodology: AHP monograph compliant, or other third-party validation.	-	-	-	-	-
d. Solvent residuals testing fit for purpose; solvent extracted products made with class 3 or other solvents used are not to exceed 500 parts per million (PPM) per one gram of solvent based product and are to be tested.	-	-	-	-	-
e. Any other QA/QC methods is proven to be fit for purpose.	-	-	-	-	-
35. Laboratory records.	-	-	-	-	-
a. Legible and in ink (or computerized system).	-	-	-	-	-
b. Signed and dated.	-	-	-	-	-
c. Changes initialed and dated.	-	-	-	-	-
d. Evidence of periodic review and signed by a management representative.	-	-	-	-	-
36. Preventive/corrective action.	-	-	-	-	-
The laboratory shall establish a policy and procedure and shall designate appropriate authorities for implementing corrective action when nonconforming work or departures from the policies and procedures in the management system or technical operations are identified.	-	-	-	-	-
a. The procedure for corrective action shall start with an investigation to determine the root cause(s) of the problem.	-	-	-	-	-
b. Where corrective action is needed, the laboratory shall identify potential corrective actions. It shall select and implement the action(s) most likely to eliminate the problem and to prevent recurrence.	-	-	-	-	-
c. The laboratory shall document and implement any required changes resulting from corrective action investigations.	-	-	-	-	-
d. Any PT round that leads to the nonproficient status of a laboratory shall be addressed by the corrective action process.	-	-	-	-	-
e. The laboratory shall monitor the results to ensure that the corrective actions taken have been effective.	-	-	-	-	-
f. When improvement opportunities are identified or if preventive action is required, action plans shall be developed, implemented and monitored to reduce the likelihood of the occurrence of such nonconformities and to take advantage of the opportunities for improvement.	-	-	-	-	-
37. Complaints.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
a. The laboratory shall have a policy and procedure for the resolution of complaints received from customers or other parties.	-	-	-	-	-
b. Records shall be maintained of all complaints and of the investigations and corrective actions taken by the laboratory.	-	-	-	-	-
c. Test reports.	-	-	-	-	-
d. Each test report or calibration certificate shall include at least the following information, unless otherwise justified:	-	-	-	-	-
i. A title (e.g., "Test Report" or "Calibration Certificate");	-	-	-	-	-
ii. The name and address of the laboratory, and the location where the tests and/or calibrations were carried out, if different from the address of the laboratory;	-	-	-	-	-
iii. Unique identification of the test report or calibration certificate (such as the serial number), and on each page an identification in order to ensure that the page is recognized as a part of the test report or calibration certificate, and a clear identification of the end of the test report or calibration certificate;	-	-	-	-	-
iv. The name and address of the customer;	-	-	-	-	-
v. Identification of the method used;	-	-	-	-	-
vi. A description of, the condition of, and unambiguous identification of the item(s) tested or calibrated;	-	-	-	-	-
vii. The date of receipt of the test or calibration item(s) where this is critical to the validity and application of the results, and the date(s) of performance of the test or calibration;	-	-	-	-	-
viii. Reference to the sampling plan and procedures used by the laboratory or other bodies where these are relevant to the validity or application of the results;	-	-	-	-	-
ix. The test or calibration results with, where appropriate, the units of measurement;	-	-	-	-	-
x. The name(s), function(s) and signature(s) or equivalent identification of person(s) authorizing the test report or calibration certificate; and	-	-	-	-	-
xi. Where relevant, a statement to the effect that the results relate only to the items tested or calibrated.	-	-	-	-	-
38. Periodic management review and internal audit.	-	-	-	-	-
a. Laboratory management shall annually review its quality system and associated procedures to evaluate continued adequacy. This review shall be documented.	-	-	-	-	-
b. Periodically and in accordance with a predetermined schedule perform an internal audit of laboratory operations to verify compliance to the GLP checklist.	-	-	-	-	-

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-103, filed 5/31/17, effective 8/31/17; WSR 16-11-110, § 314-55-103, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-103, filed 5/20/15, effective 6/20/15.]

AMENDATORY SECTION (Amending WSR 17-12-032, filed 5/31/17, effective 8/31/17)

WAC 314-55-1035 Laboratory certification—Suspension and revocation. (1) The board may summarily suspend or revoke the certification of any lab certified under WAC 314-55-0995 for any of the following reasons:

(a) The laboratory owner or science director violates any of the requirements of chapter 314-55 WAC relating to the operations of the laboratory.

(b) The laboratory owner or science director aids, abets, or permits the violation of any provision of chapters 314-55 WAC, 69.50 RCW, 69.51A RCW, or Title 9 or 9A RCW related to the operations of the laboratory, or the laboratory owner or science director permits laboratory staff to do so.

(c) Evidence the certificate holder or owner made false statements in any material regard:

(i) On the application for certification;

(ii) In submissions to the board relating to receiving or maintaining certification; or

(iii) Regarding any testing performed or results provided to WSLCB or the ((marijuana)) cannabis licensee by the certificate holder or owner pursuant to WAC 314-55-102.

(d) The laboratory owner or science director is convicted of any crime substantially related to the qualifications or duties of that owner and related to the functions of the laboratory, including a conviction for falsifying any report of or that relates to a laboratory analysis. For purposes of this subsection, a "conviction" means a plea or finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended.

(e) The laboratory submits proficiency test sample results generated by another laboratory as its own.

(f) The laboratory staff denies entry to any employee of the WSLCB or WSLCB's vendor during normal business hours for an on-site assessment or inspection, as required by WAC 314-55-0995, 314-55-102, 314-55-1025, or 314-55-103.

(2) (a) The following violations are subject to the penalties as provided in (b) of this subsection:

(i) The laboratory fails to submit an acceptable corrective action report in response to a deficiency report, and failure to implement corrective action related to any deficiencies found during a laboratory assessment.

(ii) The laboratory fails to report proficiency testing results pursuant to WAC 314-55-1025.

(iii) The laboratory fails to remit certification fees within the time limit established by a certifying authority.

(iv) The laboratory fails to meet recordkeeping requirements as required by chapter 314-55 WAC unless the failure to maintain records is substantial enough to warrant a suspension or revocation under subsection (1) of this section.

(b) The penalties for the violations in (a) of this subsection are as follows:

(i) First violation: Ten-day suspension of the lab's certification or until the lab corrects the violation leading to the suspension, whichever is longer.

(ii) Second violation within a three-year period: Thirty-day suspension of laboratory certification or until the laboratory corrects the violation leading to the suspension, whichever is longer.

(iii) Third violation within a three-year period: Revocation of the lab's certification.

(3) A certified lab may also be subject to a suspension of certification related to proficiency testing requirements under WAC 314-55-1025.

(4) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension or revocation as provided in chapter 34.05 RCW.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-1035, filed 5/31/17, effective 8/31/17.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-104 ((Marijuana)) Cannabis processor license extraction requirements. (1) Processors are limited to the methods, equipment, solvents, gases, and mediums detailed in this section when creating ((marijuana)) cannabis extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane. These solvents must be of at least ((ninety-nine)) 99 percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of ((six hundred)) 600 pounds per square inch. The CO₂ must be of at least ((ninety-nine)) 99 percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the WSLCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

(a) The American Society of Mechanical Engineers (ASME);

(b) American National Standards Institute (ANSI);

(c) Underwriters Laboratories (UL); or

(d) The American Society for Testing and Materials (ASTM).

(6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the technical report must be approved by the state building code officials prior to use per WAC 51-54A-3800.

(8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by

the local fire code official and meet any required fire, safety, and building code requirements specified in:

- (a) Title 296 WAC;
 - (b) Chapters 51-51 and 51-54A WAC;
 - (c) National Fire Protection Association (NFPA) standards;
 - (d) International Building Code (IBC);
 - (e) International Fire Code (IFC); and
 - (f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.
- (9) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- (10) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.
- (11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (12) Processors creating ((marijuana)) cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create ((marijuana)) cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- (13) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in WAC 314-55-102.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-104, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-104, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-104, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-104, 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, § 314-55-104, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 20-01-172, filed 12/18/19, effective 1/1/20)

WAC 314-55-105 ((Marijuana)) 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 (~~(twenty-one)~~) 21 through the ingestion of potentially hazardous items including, but not limited to, (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana)~~) cannabis, and (~~(marijuana-infused)~~) cannabis-infused products.

(c) "Especially appealing to persons under the age of (~~(twenty-one)~~) 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 (~~(twenty-one)~~) 21;

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

(v) Images of persons under the age of (~~(twenty-one)~~) 21; or

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

(d) "~~(Marijuana)~~ 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 (~~(ten)~~) 10 percent, consistent with RCW 69.50.101(z).

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

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

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

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

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

(b) (~~(Marijuana)~~) 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 (~~(twenty-one)~~) 21 from accidental exposure to (~~(marijuana)~~) cannabis concentrates.

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

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

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the ((marijuana)) 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 (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;

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

(vi) 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

(vii) 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 ((marijuana)) cannabis concentrates are processed.

(f) ((Marijuana)) 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 ((marijuana)) cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ((~~twenty-one~~)) 21 consuming ((marijuana)) cannabis; or

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

(g) The following statements must be included on all ((marijuana)) 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 ((marijuana)) cannabis;"

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

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

(h) Product labeling for ((marijuana)) cannabis concentrates identified as compliant ((marijuana)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) 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) **((~~Marijuana~~)) Cannabis edibles in solid form.** The following standards apply to all packaging and labeling of ((~~marijuana~~)) cannabis edibles in solid form:

(a) Containers or packaging containing ((~~marijuana~~)) cannabis edibles in solid form must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the ((~~marijuana~~)) cannabis edibles in solid form.

(b) ((~~Marijuana~~)) 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 ((~~twenty-one~~)) 21 from accidental exposure to ((~~marijuana~~)) cannabis edibles in solid form.

(c) ((~~Marijuana-infused~~)) 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) ((~~Marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis edibles in solid form must clearly and visibly provide all of the following information:

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

(v) Total THC (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) Medically and scientifically accurate and reliable information about the health and safety risks posed by ~~((marijuana))~~ 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 ~~((marijuana))~~ 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 ~~((marijuana))~~ cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ~~((twenty-one))~~ 21 consuming ~~((marijuana))~~ cannabis, or is especially appealing to persons under ~~((twenty-one))~~ 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 ~~((marijuana))~~ 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 ~~((marijuana))~~ cannabis;"

(iv) The ~~((marijuana))~~ 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 ~~((marijuana))~~ cannabis edibles in solid form identified as compliant ~~((marijuana))~~ 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 ~~((marijuana))~~ 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 ~~((marijuana))~~ 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) **((Marijuana)) Cannabis edibles in liquid form**. The following standards apply to all packaging and labeling of **((marijuana)) cannabis edibles** in liquid form:

(a) Containers or packaging containing **((marijuana)) cannabis edibles** in liquid form must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the **((marijuana)) cannabis edibles** in liquid form.

(b) **((Marijuana)) 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 ~~((twenty-one))~~ 21 from accidental exposure to **((marijuana)) cannabis edibles** in liquid form.

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

(c) **((Marijuana)) 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 **((marijuana)) 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 **((marijuana)) cannabis edibles** in liquid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the nine digit Washington state unified business identifier (UBI) number of the licensee that produced and processed the **((marijuana)) cannabis** or **((marijuana)) 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 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;

(v) Total THC (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) Medically and scientifically accurate and reliable information about the health and safety risks posed by **((marijuana)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ((~~twenty-one~~)) 21 consuming ((~~marijuana~~)) cannabis, or is especially appealing to persons under ((~~twenty-one~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis;"

(iv) The ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis edibles in liquid form identified as compliant ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis.** The following standards apply to all packaging and labeling of useable ((~~marijuana~~)) cannabis:

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

(b) Useable ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis must clearly and visibly provide all of the following information:

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

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

(e) Labels for useable ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ((~~twenty-one~~)) 21 consuming ((~~marijuana~~)) cannabis, or is especially appealing to persons under ((~~twenty-one~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) cannabis;"

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

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

(g) Product labeling for useable ((~~marijuana~~)) cannabis identified as compliant ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) 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) **((Marijuana)) Cannabis mix.** ((Marijuana)) Cannabis mix is defined in WAC 314-55-010(22) as an intermediate lot that contains multiple strains of useable ((marijuana)) cannabis and is chopped or ground so no particles are greater than 3 mm. The following standards apply to all packaging and labeling of ((marijuana)) cannabis mix:

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

(b) ((Marijuana)) 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) ((Marijuana)) 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 ((marijuana)) cannabis mix must clearly and visibly provide all of the following information:

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

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

(vi) 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;

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

(e) Labels for ((marijuana)) 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 ((marijuana)) cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ((~~twenty-one~~)) 21 consuming ((marijuana)) cannabis, or is especially appealing to persons under ((~~twenty-one~~)) 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 ((marijuana)) cannabis mix. The following warning statements must 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 ((marijuana)) cannabis;"

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

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

(g) Product labeling for ((marijuana)) cannabis mix identified as compliant ((marijuana)) 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 ((marijuana)) 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 ((marijuana)) 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) **((Marijuana)) Cannabis topicals.** The following standards apply to all packaging and labeling of ((marijuana)) cannabis topicals:

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

(b) ((Marijuana)) 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) ((Marijuana)) 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 ((marijuana)) cannabis topicals must clearly and visibly provide all of the following information:

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

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

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

(e) Labels for ((marijuana)) 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 ((marijuana)) cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of ((twenty-one)) 21 consuming ((marijuana)) cannabis, or is especially appealing to persons under ((twenty-one)) 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 ((marijuana)) cannabis topicals. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Unlawful outside Washington State;"

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

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

(g) Product labeling for ((marijuana)) cannabis topicals identified as compliant ((marijuana)) 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 ((marijuana)) 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 ((marijuana)) 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 ((marijuana)) cannabis product or made available to the consumer purchasing ((marijuana)) 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 ((marijuana)) cannabis plants and growing medium during production of the

useable ((~~marijuana~~) cannabis or the base ((~~marijuana~~) 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 ((~~marijuana~~) 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 ((~~marijuana~~) cannabis or ((~~marijuana~~) cannabis product. A retailer must provide the information upon request.

[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.]

AMENDATORY SECTION (Amending WSR 21-05-075, filed 2/17/21, effective 3/20/21)

WAC 314-55-1055 Ingredient disclosure. (1) All licensed ((~~marijuana~~) cannabis processors and producers must disclose all ingredients used in the production of ((~~marijuana~~) cannabis concentrates for inhalation and ((~~marijuana-infused~~) cannabis-infused extracts for inhalation.

(2) All chemicals, compounds, additives, preservatives, thickening agents, terpenes, and other substances used at any point in the production or processing of ((~~marijuana~~) cannabis concentrates for inhalation or ((~~marijuana-infused~~) cannabis-infused extracts for inhalation, regardless of source or origin, must be disclosed to the board as follows:

(a) On a form provided by the board and stored by the licensee, either electronically or in hard copy, and made available for inspection if requested by an employee of the board; and

(b) In a manner directed by the board including, but not limited to, submission to an email address or other online platform provided and maintained by the board.

(3) The complete list of all chemicals, compounds, additives, preservatives, thickening agents, terpenes, and other substances used at any point in the production or processing of ((~~marijuana~~) cannabis concentrates for inhalation or ((~~marijuana-infused~~) cannabis-infused extracts for inhalation, regardless of source or origin, that is required under subsection (2) of this section must be kept and maintained, consistent with recordkeeping requirements described in WAC 314-55-087, at the facility in which the products are processed. The list must be updated whenever there is any change in product composition.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-05-075, § 314-55-1055, filed 2/17/21, effective 3/20/21.]

AMENDATORY SECTION (Amending WSR 18-11-005, filed 5/2/18, effective 1/1/19)

WAC 314-55-106 ((Marijuana)) Cannabis warning symbol requirement. The following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) ((~~Marijuana-infused~~)) 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 ((~~marijuana~~)) cannabis products by WAC 314-55-105.

(2) All ((~~marijuana~~)) cannabis products sold at retail must be labeled on the principal display panel or front of the product package with the ((~~marijuana~~)) cannabis universal symbol ("universal symbol") created and made available in digital form to licensees without cost by the WSLCB. The digital file for the universal symbol is available on the 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 ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 container, or of any outer container or wrapping, which bear(s) the labeling designed

to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate container" means the external container holding the ((marijuana)) cannabis product.

[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.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-107 ((Marijuana)) Cannabis product compliance. A ((marijuana)) cannabis compliant product must meet all requirements in the department of health rules found in chapter 246-70 WAC in addition to all WSLCB requirements found in chapter 314-55 WAC.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-107, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-056, filed 10/31/18, effective 12/1/18)

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW 69.50.326 Licensed ((marijuana)) cannabis producers and licensed ((marijuana)) cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Has a THC level of 0.3 percent or 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 ((marijuana)) cannabis producers and licensed ((~~marijuana~~)) 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 ((marijuana)) cannabis, except ((marijuana)) cannabis that is an intermediate product that will be converted into a ((~~marijuana-infused~~)) cannabis-infused product or a ((marijuana)) 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 ((marijuana)) cannabis produced by ((~~marijuana~~)) 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 ((~~marijuana~~)) 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 ((marijuana)) cannabis and ((marijuana)) 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 ((marijuana)) cannabis and ((marijuana)) 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 WSLCB 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 ((marijuana)) 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 ((marijuana)) 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 ((marijuana)) 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 ((marijuana)) 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) **Potency testing.** Potency testing is required to confirm the product is less than 0.3 percent THC, contains detectable levels of CBD, and to determine the levels of THC, THC-A, CBD, and CBD-A in the product. 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 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 potency results fail quality 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 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) Certified third-party labs must 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 WSLCB.

(B) If the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed for use or application on ((marijuana)) 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) Certified third-party labs must also screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified 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:

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

(iv) **Residual solvents screening.** 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
Methanol	3,000
Pentanes	5,000

Solvent	ppm
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:

	Enterobacteria (bile-tolerant gram-negative bacteria)	<i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i>
Unprocessed Plant Material	10 ⁴	Not detected in 1g
Extracted or Processed Botanical Product	10 ³	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.** Certified labs must report all test results as required by this section into the state traceability system within (~~twenty-four~~) 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the WSLCB 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. Potency retesting will 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 (~~marijuana~~) 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 (~~marijuana~~) 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 69.50.345. WSR 18-22-056, § 314-55-109, filed 10/31/18, effective 12/1/18.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-115 What method of payment can a ((marijuana)) cannabis licensee use to purchase ((marijuana)) cannabis? A ((marijuana)) cannabis licensee must pay cash for ((marijuana)) cannabis prior to or at the time of delivery. The WSLCB will recognize the following forms of payment as cash payment for the purpose of this section.

(1) **Checks.**

(2) **Credit/debit cards,** under the following provisions:

(a) The credit or debit card transaction agreement must be voluntary on the part of both licensees, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for the WSLCB review.

(e) The credit or debit card charge must be initiated by the ((marijuana)) cannabis licensee no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT),** under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the licensees, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the ((marijuana)) cannabis licensee must enter into a written agreement specifying the terms and conditions for EFT as payment for ((marijuana)) cannabis.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for the WSLCB review.

(f) The electronic funds transfer must be initiated by the ((marijuana)) cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a ((marijuana)) cannabis licensee to delay payment on EFT transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts.** Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

(5) **Transactions using a money transmitter,** under the following provisions:

(a) The money transmitter must be licensed by and in good standing with the Washington state department of financial institutions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective costs associated with the money transmitter service.

(d) Both parties must maintain records of transactions and have the records readily available for the WSLCB to review.

(e) The funds transfer through the money transmitter must be initiated by the ((~~marijuana~~)) cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a ((~~marijuana~~)) cannabis licensee to delay payment on money transmitter transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(6) Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit. If a transaction is reported as NSF:

(a) The purchaser must pay the full amount of the transaction to the seller by 3:00 p.m. on the first business day following receipt of the NSF report.

(b) Until the NSF transaction is paid:

(i) The ((~~marijuana~~)) cannabis licensee who received the NSF transaction will not deliver any ((~~marijuana~~)) cannabis to the purchaser; and

(ii) It is the responsibility of the purchaser to not receive additional ((~~marijuana~~)) cannabis from any other ((~~marijuana~~)) cannabis licensee.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-115, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-117 Use of payment services by retailers. Retail licensees may use payment services to facilitate retail sales transactions under the following conditions:

(1) The payment service provider must:

(a) If applicable, be licensed and in good standing with the Washington state department of financial institutions; and

(b) Not have any interest, as a true party of interest or financier, in a ((~~marijuana~~)) cannabis licensee.

(2) The payment service provider may charge a convenience fee to customers provided that the customer has the option of canceling the transaction when informed of the convenience fee.

(3) The retail purchase price must be calculated in U.S. dollars.

(4) The ((~~marijuana~~)) cannabis excise tax required under RCW 69.50.535 must be collected from the customer based on the U.S. dollar purchase price.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-117, filed 10/31/18, effective 12/1/18.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-135 Discontinue ((~~marijuana~~)) cannabis sales. (1) **Notification:** A licensee must notify the WSLCB's enforcement and edu-

cation division in writing if the licensee plans to stop doing business for more than ~~((thirty))~~ 30 days, or if the licensee plans to permanently discontinue ~~((marijuana))~~ cannabis sales.

(2) **Discontinued business: Sale of ~~((marijuana))~~ cannabis inventory and stock after discontinuance of business.** Notwithstanding any other provision of Title 69 RCW or 314 WAC, a producer, processor or retail licensee who permanently discontinues business for any reason shall dispose of the salable inventory and remaining stock to a WSLCB approved licensed business at fair market value. Sales below cost are prohibited. The WSLCB shall require tax expressed as a percent of the total price of the gross sales as reported on the profit and loss statement in the last published monthly report of the WSLCB. In the event of remaining inventory after sale, the licensee shall notify the enforcement and education division of the WSLCB. The enforcement division will establish conditions for destruction or arrange for the removal of product.

(3) **Assumptions: Assumption of license and purchases by licensee of certain ~~((marijuana))~~ cannabis inventory and stock.** In the case of a sale of business with a license, after obtaining the approval of the WSLCB and under the supervision of a representative of the WSLCB, the licensee may sell the entire inventory at a negotiated fair market price. Sales below cost are prohibited.

(4) **Evictions.** A licensee must notify the WSLCB's enforcement and education division immediately in writing upon notice of eviction from a licensed premises. Conditions to temporarily relocate and secure inventory will be established by the WSLCB.

(5) **Abandoned ~~((marijuana))~~ cannabis inventory or product.** In the event a licensee abandons any ~~((marijuana))~~ cannabis on the premises, the property owner or their designated representative should notify the enforcement and education division of the WSLCB. The enforcement division will work with the property owner to arrange for the removal and/or destruction of product. Any sales or distribution of ~~((marijuana))~~ cannabis by an unlicensed person is subject to the criminal provisions of Title 69 RCW.

(6) **Maintaining a licensed location.** ~~((Marijuana))~~ Cannabis licenses are associated with a physical location. Persons operating without a WSLCB approved licensed location to produce, process, or sell ~~((marijuana))~~ cannabis will be discontinued.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-135, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-135, 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, § 314-55-135, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-140 Death or incapacity of a ~~((marijuana))~~ cannabis licensee. (1) The appointed guardian, executor, administrator, trustee, or assignee must notify the WSLCB's licensing and regulation division in the event of the death, incapacity, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The WSLCB may give the appointed guardian, executor, administrator, trustee, or assignee written approval to continue ~~((marijua-~~

na)) cannabis sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a ((marijuana)) cannabis license for the business.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-140, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-140, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-140, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-145 Are ((marijuana)) cannabis license fees refundable? When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the ((marijuana)) cannabis license fee will not be refunded.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-145, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-147 What hours may a ((marijuana)) cannabis retailer licensee conduct sales? A ((marijuana)) cannabis retailer licensee may sell usable ((marijuana, marijuana)) cannabis, cannabis concentrates, ((marijuana-infused)) cannabis-infused products, and ((marijuana)) cannabis paraphernalia between the hours of 8 a.m. and 12 a.m.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-147, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-147, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-150 What are the forms of acceptable identification?

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing ((marijuana)) cannabis:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-150, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-155 Advertising requirements and promotional items—Coupons, giveaways, etc. The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) **Advertising generally.** The following requirements apply to all advertising by ((~~marijuana~~)) cannabis licensees in Washington state.

(a) All ((~~marijuana~~)) cannabis advertising and labels of useable ((~~marijuana, marijuana~~)) cannabis, cannabis concentrates, and ((~~marijuana-infused~~)) cannabis-infused products sold in the state of Washington must not contain any statement, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

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

(iv) Depicts a child or other person under legal age to consume ((~~marijuana~~)) cannabis, or includes:

(A) The use of objects, such as toys, inflatables, movie characters, cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume ((~~marijuana~~)) cannabis; or

(B) Is designed in any manner that would be especially appealing to children or other persons under ((~~twenty-one~~)) 21 years of age.

(b) No ((~~marijuana~~)) cannabis licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a ((~~marijuana~~)) cannabis business or ((~~marijuana~~)) cannabis product, including ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana~~)) cannabis, or ((~~marijuana-infused~~)) cannabis-infused product:

(i) In any form or through any medium whatsoever within ((~~one thousand~~)) 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged ((~~twenty-one~~)) 21 years or older unless the ((~~one thousand~~)) 1,000 minimum distance requirement has been reduced by ordi-

nance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within (~~one thousand~~) 1,000 feet of a restricted location listed in this paragraph;

(ii) On or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location;

(c) All advertising for (~~marijuana~~) cannabis businesses or (~~marijuana~~) cannabis products, regardless of what medium is used, must contain text stating that (~~marijuana~~) cannabis products may be purchased or possessed only by persons (~~twenty-one~~) 21 years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A (~~marijuana~~) cannabis licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by (~~marijuana~~) cannabis licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed (~~marijuana~~) cannabis retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to (~~six-hundred~~) 1,600 square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of (~~marijuana~~) cannabis plants or (~~marijuana~~) cannabis products. Logos or artwork that do not contain depictions of (~~marijuana~~) cannabis plants or (~~marijuana~~) cannabis products as defined in this section are permissible.

(A) A depiction of a (~~marijuana~~) cannabis plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a (~~marijuana~~) cannabis product means an image or visual representation of useable (~~marijuana, marijuana-infused~~) cannabis, cannabis-infused products, or (~~marijuana~~) cannabis concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, website address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No ~~((marijuana))~~ cannabis licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed ~~((marijuana))~~ cannabis business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than ~~((fourteen))~~ 14 days before the event, and that does not advertise any ~~((marijuana))~~ cannabis product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the ~~((marijuana))~~ cannabis business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed ~~((marijuana))~~ cannabis retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned. For the purposes of this section, a "giveaway" does not include representative samples of products (edible products and topicals only) carried by a licensed retailer that are not infused with ~~((marijuana))~~ cannabis and are offered to customers on licensed ~~((marijuana))~~ cannabis retail premises for sampling purposes only.

(5) ~~((Marijuana))~~ Cannabis retail licensees holding a medical ~~((marijuana))~~ cannabis endorsement may donate product to qualifying patients or designated providers who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least ~~((ten))~~ 10 percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "~~((Marijuana))~~ Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults ~~((twenty-one))~~ 21 and older. Keep out of the reach of children."

(7) For the purposes of this section, the following definitions apply:

(a) "Adult only facility" means:

(i) A location restricted to persons age (~~((twenty-one))~~) 21 and older by the WSLCB or classified by the WSLCB as off limits to persons under (~~((twenty-one))~~) 21 years of age; or

(ii) A venue restricted to persons age (~~((twenty-one))~~) 21 and older and where persons under (~~((twenty-one))~~) 21 years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by (~~((eleven))~~) 11 feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-155, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, and 69.50.369. WSR 18-05-001, § 314-55-155, filed 2/7/18, effective 3/10/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-155, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-155, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-160 Objections to ((marijuana)) cannabis license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a ((marijuana)) cannabis license?** Per RCW 69.50.331, the WSLCB will notify cities, counties, tribal governments, and port authorities of the following types of ((marijuana)) cannabis applications. In addition to these entities, any person or group may comment in writing to the WSLCB regarding an application.

Type of application	Entities the WSLCB will/may notify
<ul style="list-style-type: none"> Applications for an annual ((marijuana)) <u>cannabis</u> license at a new location. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.
<ul style="list-style-type: none"> Applications to change the class of an existing annual ((marijuana)) <u>cannabis</u> license. 	
<ul style="list-style-type: none"> Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified.

Type of application	Entities the WSLCB will/may notify
	Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a ((marijuana)) cannabis license application?** When deciding whether to issue or deny a ((marijuana)) cannabis license application, the WSLCB will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the WSLCB shall not issue a new ((marijuana)) cannabis license if any of the following are within ((one thousand)) 1,000 feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, game arcade where admission is not restricted to persons ((twenty-one)) 21 years of age or older.

(a) If the WSLCB contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the WSLCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the WSLCB denies a ((marijuana)) cannabis license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the WSLCB for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within ((twenty)) 20 days of the date the intent to deny notification was mailed.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-160, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-160, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-165 Objections to ((marijuana)) cannabis license renewals. (1) **How can local cities, counties, tribal governments, or port authorities object to the renewal of a ((marijuana)) cannabis license?**

(a) The WSLCB will give governmental jurisdictions approximately ((ninety)) 90 days written notice of premises that hold annual ((marijuana)) cannabis licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a ((marijuana)) cannabis license in its jurisdiction, it must submit a letter to the WSLCB detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the WSLCB for an extension for good cause shown.

(d) This letter must be received by the WSLCB at least ((thirty)) 30 days before the ((marijuana)) cannabis license expires. The objection must state specific reasons and facts that show issuance of the ((marijuana)) cannabis license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within ((thirty)) 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the WSLCB's licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) What will happen if a city, county, tribal government, or port authority objects to the renewal of a ((marijuana)) cannabis license? The WSLCB will give substantial weight to a city, county, tribal government, or port authority objection to a ((marijuana)) cannabis license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the WSLCB will decide to either renew the ((marijuana)) cannabis license, or to pursue nonrenewal.

<p>(a) WSLCB decides to renew the ((marijuana)) <u>cannabis</u> license:</p>	<p>(b) WSLCB decides to pursue nonrenewal of the ((marijuana)) <u>cannabis</u> license:</p>
<p>(i) The WSLCB will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p>	<p>(i) The WSLCB will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p>

<p>(a) WSLCB decides to renew the ((marijuana)) <u>cannabis</u> license:</p>	<p>(b) WSLCB decides to pursue nonrenewal of the ((marijuana)) <u>cannabis</u> license:</p>
<p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the WSLCB. The request must be received within twenty days of the date the intent to renew notification was mailed. If the WSLCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the WSLCB. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the ((marijuana)) <u>cannabis</u> license until a final decision is made.</p>

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-165, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-165, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-185 WSLCB right to inspect premises or vehicles associated with a license to produce, process, sell, research, or transport ~~((marijuana))~~ cannabis.

(1) The following must be available for inspection at all times by an enforcement officer of the WSLCB:

(a) All licensed premises used in the production, processing, storage, transportation, research, or sale of ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, ~~((marijuana-infused))~~ cannabis-infused products, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, or ~~((marijuana-infused))~~ cannabis-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in this chapter; and

(d) ~~((Marijuana))~~ Cannabis, useable ~~((marijuana))~~ cannabis, ~~((marijuana))~~ cannabis concentrates, or ~~((marijuana-infused))~~ cannabis-infused products on the licensed premises for the purpose of ana-

lyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or within a transporting vehicle, or having charge thereof, must admit an enforcement officer of the WSLCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-185, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-185, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-200 How will the WSLCB identify ((~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, and ((~~marijuana-infused~~) cannabis-infused products during checks of licensed businesses? Officers shall identify ((~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, and ((~~marijuana-infused~~) cannabis-infused products during on-site inspections of licensed producers, processors, and retailers of ((~~marijuana~~) cannabis by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be ((~~marijuana, usable marijuana~~) cannabis, useable cannabis, and ((~~marijuana-infused~~) cannabis-infused products will be verified by the following:

- (1) Officers may take a sample large enough for testing purposes;
- (2) Field test kits may be used if available and appropriate for the type of product being verified; and
- (3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-200, filed 5/18/16, effective 6/18/16; WSR 14-07-116, § 314-55-200, filed 3/19/14, effective 4/19/14.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-210 Will the WSLCB seize or confiscate ((~~marijuana, marijuana~~) cannabis, cannabis concentrates, ((~~usable marijuana~~) useable cannabis, and ((~~marijuana-infused~~) cannabis-infused products? The WSLCB may seize, destroy, confiscate, or place an administrative hold on ((~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, and ((~~marijuana-infused~~) cannabis-infused products under the following circumstances:

- (1) During an unannounced or announced administrative search or inspection of licensed locations, areas of unlicensed locations used for business or commercial purposes, or vehicles involved in the

transportation of (~~marijuana~~) cannabis products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Any product not properly logged in inventory records or un-traceable product required to be in the traceability system.

(3) (~~Marijuana, marijuana~~) Cannabis, cannabis concentrates, (~~usable marijuana~~) useable cannabis, and (~~marijuana-infused~~) cannabis-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.

(4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.

(5) The WSLCB may destroy any (~~marijuana, marijuana~~) cannabis, cannabis concentrate, (~~usable marijuana~~) useable cannabis, and/or (~~marijuana-infused~~) cannabis-infused products in its possession that is not identifiable through the Washington (~~marijuana~~) cannabis traceability system or otherwise in a form that is not compliant with Washington's (~~marijuana~~) cannabis statutes or rules, chapters 69.50 RCW and 314-55 WAC.

(6) WSLCB officers may order an administrative hold of (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, and (~~marijuana-infused~~) cannabis-infused products to prevent destruction of evidence, diversion or other threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

(a) If during an investigation or inspection of a licensee, a WSLCB officer develops reasonable grounds to believe certain (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, and (~~marijuana-infused~~) cannabis-infused products constitute evidence of acts in violation of the state laws or rules, or otherwise constitute a threat to public safety, the WSLCB officer may issue a notice of administrative hold of any such (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, or (~~marijuana-infused~~) cannabis-infused products. The notice of administrative hold shall provide a documented description of the (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, or (~~marijuana-infused~~) cannabis-infused products to be subject to the administrative hold.

(b) The licensee shall completely and physically segregate the (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, and (~~marijuana-infused~~) cannabis-infused products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the licensee is prohibited from selling, giving away, transferring, transporting, or destroying the (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, and (~~marijuana-infused~~) cannabis-infused products subject to the administrative hold.

(c) Nothing herein shall prevent a licensee from the continued cultivation or harvesting of the (~~marijuana~~) cannabis subject to the administrative hold. All (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, and (~~marijuana-infused~~) cannabis-infused products subject to the administrative hold must be put into separate harvest batches from product not subject to the administrative hold.

(d) Following an investigation, the WSLCB may lift the administrative hold, order the continuation of the administrative hold, or seek a final agency order for the destruction of the (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrate, and (~~marijuana-infused~~) cannabis-infused products.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-210, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-210, filed 5/20/15, effective 6/20/15; WSR 14-07-116, § 314-55-210, filed 3/19/14, effective 4/19/14.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-220 What is the process once the WSLCB summarily orders (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused products of a (~~marijuana~~) cannabis licensee to be destroyed?

(1) The WSLCB may issue an order to summarily destroy (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused products after the WSLCB's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the WSLCB, an adjudicative proceeding for the associated violation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within (~~ninety~~) 90 days of the effective date of the summary destruction ordered by the WSLCB.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-220, filed 5/18/16, effective 6/18/16; WSR 14-07-116, § 314-55-220, filed 3/19/14, effective 4/19/14.]

AMENDATORY SECTION (Amending WSR 16-16-050, filed 7/27/16, effective 8/27/16)

WAC 314-55-225 ((~~Marijuana~~) Cannabis recalls. (1) Definitions. For the purposes of this section, the following definitions apply:

(a) "Affected product" means (~~marijuana, usable marijuana, marijuana~~) cannabis, useable cannabis, cannabis concentrates, or (~~marijuana-infused~~) cannabis-infused products subject to a recall.

(b) "Affected licensee" means a licensee whose (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products are subject to a recall. More than one licensee may be an affected licensee in a recall.

(2) **Exempt market withdrawals.**

(a) A licensee may withdraw from the market (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products by its own determination for reasons that do not pose a risk to consumers such as for aesthetic reasons or other similar deficiencies in product or packaging.

(b) If a licensee initiates a market withdrawal for a reason that does not pose a risk to consumers, the licensee must notify the WSLCB by contacting the local WSLCB enforcement officer assigned to the local area within (~~(forty-eight)~~) 48 hours of beginning the market withdrawal. Licensees withdrawing (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products under this subsection (2), for reasons other than risk to consumers, are exempt from the remaining requirements of this section.

(3) (a) **When a recall is required.** A recall is required when circumstances exist that pose a risk to consumers. Factors that contribute to a determination of a recall situation include, but are not limited to, the following:

(i) Evidence that pesticides not approved by the board are present on or in (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products above the action levels prescribed by board rule;

(ii) Evidence that residual solvents are present on or in (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products at levels above the action levels prescribed by board rule; or

(iii) Evidence of another condition that poses a risk to consumers including, but not limited to, ingredients in (~~(marijuana-infused)~~) cannabis-infused products that are unfit for human consumption.

(b) **Licensee-initiated recalls.**

(i) If a licensee initiates a recall due to a condition that poses a risk to consumers and would make a recall appropriate under this subsection (3), the licensee must:

(A) Immediately notify the local WSLCB enforcement officer; and

(B) Secure, isolate, and prevent the distribution of all (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products that may have been exposed to the condition warranting the recall. The licensee is prohibited from destroying any affected product prior to notifying the (~~(WSLCB-[WSLCB])~~) WSLCB and coordinating with the local WSLCB officer on destruction activities.

(ii) If the WSLCB determines the licensee fails to engage in recall efforts that meet the urgency of the risk to consumers, the WSLCB may seek a board-directed recall as provided in this section depending on the circumstances.

(c) **WSLCB investigation-initiated recalls.**

(i) If the WSLCB determines that a recall is not appropriate after an investigation, the WSLCB enforcement division may release ad-

ministrative holds placed on (~~(marijuana, usable marijuana, marijuana)~~) cannabis, useable cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products as part of the investigation as appropriate, unless an administrative hold is necessary under a continuing investigation.

(ii) If the WSLCB determines that a recall is appropriate after an investigation, the WSLCB notifies the board and requests the board issue a recall. If the board issues a recall, the WSLCB notifies the affected licensee that is the source of the issue giving rise to a recall.

(d) **Recall plans.** All licensees must develop a recall plan within (~~(sixty)~~) 60 days of the effective date of this section that sets the procedures the licensee will follow in the event of a recall of the licensee's product or products under the licensee's control. If a licensee becomes an affected licensee as part of a recall and the affected licensee distributed affected product to consumers or to retailers, the affected licensee must immediately notify all licensees that received affected product, and issue a press release and other appropriate public notification to inform consumers of the recall and identifying information about the affected product recalled.

(i) A recall plan must include, at a minimum, the following:

(A) Designation of a member of the licensee's staff who serves as the licensee's recall coordinator;

(B) Procedures for identifying and isolating product to prevent or minimize its distribution to consumers;

(C) Procedures to retrieve and destroy product; and

(D) A communications plan to notify those affected by the recall, including:

(I) How the affected licensee will notify other licensees in possession of product subject to the recall; and

(II) The use of press releases and other appropriate notifications to ensure consumers are notified of the recall and affected product information if the affected product was distributed to consumers.

(ii) A recall must follow the procedures outlined in the recall plan unless otherwise agreed by the WSLCB and the licensee. The affected licensee must ensure recall procedures are conducted to maximize recall of affected product and minimize risks to consumers.

(e) **Destruction of affected product.** An affected licensee must coordinate destruction of affected product with the local WSLCB enforcement officer and allow (~~(WSLCB-[WSLCB])~~) WSLCB enforcement to oversee the destruction of affected product recalled to ensure the destruction of affected product that poses risks to consumers.

(f) **Recall reports and audit.** The affected licensee must track the total amount of affected product and the amount of affected product returned to the affected licensee as part of the recall effort. The affected licensee must report to the WSLCB periodically on the progress of the recall efforts. The periodic reports must occur at a minimum of once a week or as otherwise specified and agreed to by the WSLCB and the affected licensee in the recall plan.

(g) **Recall closure.** If the WSLCB determines that the recall efforts are successful and risks to public health and safety are no longer present, the WSLCB may recommend closure of the recall to the board.

(4) **Board-directed recall.**

(a) Upon the recommendation by the WSLCB enforcement division, the board may issue a directed recall if:

(i) The affected licensee does not comply with a recall under subsection (3) of this section;

(ii) The affected licensee does not comply with the recall plan or recall reporting requirements under subsection (3) of this section; or

(iii) The WSLCB enforcement division determines that affected product may be diverted or is being diverted from the licensed business, or another circumstance that makes the affected licensee's destruction of the product inadvisable or a risk to consumers.

(b) If the board issues a directed recall, the WSLCB will notify consumers of the recall and all licensees that may possess product affected by the recall if notice has not yet occurred.

(c) Under a directed recall, the WSLCB enforcement division may seek an order for destruction of the affected product from the board.

(i) If the board issues an order for destruction, the WSLCB enforcement division may seize and conduct the destruction of affected product.

(ii) An order for destruction will include notice to the licensee and opportunity for hearing before destruction, unless there is evidence of an immediate danger to public health, safety, or welfare to justify an immediate order for destruction, with an opportunity for an expedited hearing after the destruction.

(d) If a destruction order is issued and the WSLCB seizes product affected by the recall and conducts the destruction of the product, the affected licensee may be responsible for reimbursing the WSLCB for costs associated with product destruction.

(e) If the board finds that an immediate danger to the public health, safety, or welfare requires immediate WSLCB action, a licensee may also be subject to summary suspension under RCW 66.08.150(4).

(5) The WSLCB will maintain a recall web page on its website of all current and closed recalls of record.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-16-050, § 314-55-225, filed 7/27/16, effective 8/27/16.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-230 What are the procedures the WSLCB will use to destroy or donate ((marijuana, usable marijuana, marijuana)) cannabis, useable cannabis, cannabis concentrates, and ((marijuana-infused)) cannabis-infused products to law enforcement? (1) The WSLCB may require a ((marijuana)) cannabis licensee to destroy ((marijuana, usable marijuana, marijuana)) cannabis, useable cannabis, cannabis concentrates, and ((marijuana-infused)) cannabis-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized ((marijuana, usable marijuana, marijuana)) cannabis, useable cannabis, cannabis concentrates, ((marijuana-infused)) cannabis-infused products, or confiscated ((marijuana)) cannabis after case adjudication, will conform with the WSLCB evidence policies, to include the option of donating ((marijuana, usable marijuana, marijuana)) cannabis, useable cannabis, cannabis concentrates, and ((marijuana-infused)) cannabis-infused products, set for destruc-

tion, to local and state law enforcement agencies for training purposes only.

(3) (~~(Marijuana, usable marijuana, marijuana)~~) Cannabis, useable cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products set for destruction shall not reenter the traceability system or market place.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-230, filed 5/18/16, effective 6/18/16; WSR 14-07-116, § 315-55-230 (codified as WAC 314-55-230), filed 3/19/14, effective 4/19/14.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products between licensed (~~(marijuana)~~) cannabis businesses within Washington state. The application fee for the transportation license is (~~(two hundred fifty dollars)~~) \$250 and the annual fee is (~~(one thousand three hundred dollars)~~) \$1,300.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and

property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than (~~one million dollars~~) \$1,000,000.

(iii) Insurance carrier rating: The insurance required in (e) (i) of this subsection shall be issued by an insurance company authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the WSLCB containing all information required by the WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the WSLCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** (~~(Marijuana)~~) Cannabis or (~~(marijuana)~~) cannabis products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least (~~(twenty-one)~~) 21 years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting (~~(marijuana)~~) cannabis or (~~(marijuana)~~) cannabis products must be employees of the transportation licensee who are at least (~~(twenty-one)~~) 21 years of age;

(b) (~~(Marijuana)~~) Cannabis or (~~(marijuana)~~) cannabis products must be in a sealed package or container approved by the WSLCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) (~~(Marijuana)~~) Cannabis or (~~(marijuana)~~) cannabis products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the (~~(marijuana)~~) cannabis or (~~(marijuana)~~) cannabis products;

(e) Any vehicle transporting (~~(marijuana)~~) cannabis or (~~(marijuana)~~) cannabis products must be delivered or returned to the shipper within (~~(forty-eight)~~) 48 hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the WSLCB. Vehicles assigned for transportation may be stopped and inspected by a WSLCB enforcement officer at any licensed location, or while en route during transportation.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-310, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-310, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing (~~(marijuana)~~) cannabis only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All cooperative members must be at least (~~(twenty-one)~~) 21 years of age. The designated provider of a qualifying patient under (~~(twenty-one)~~) 21 years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All cooperative members must hold valid recognition cards as defined by RCW 69.51A.010;

(c) No more than four qualifying patients or designated providers may become members of a cooperative;

(d) Qualifying patients or designated providers may only participate in one cooperative;

(e) A cooperative member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Cooperative members must participate in growing plants. Cooperative members must provide nonmonetary resources and assistance in order to participate. A monetary contribution or donation is not considered assistance;

(g) Cooperative members may grow up to the total amount of plants for which each cooperative member is authorized on his or her recognition card. At the location, the qualifying patients or designated providers may possess the amount of useable (~~(marijuana)~~) cannabis that

can be produced with the number of plants permitted, but no more than ~~((seventy-two))~~ 72 ounces;

(h) Cooperative members may not sell, donate, or otherwise provide ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, useable ~~((marijuana))~~ cannabis, or other ~~((marijuana-infused))~~ cannabis-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a ~~((marijuana))~~ cannabis retailer;

(j) A cooperative must be located at the domicile of one of the cooperative members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor ~~((marijuana))~~ cannabis production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the WSLCB. The location registered is the only location where cooperative members may grow or process ~~((marijuana))~~ cannabis. The following is required to register a cooperative:

(a) Submit a completed ~~((Marijuana))~~ Cannabis Cooperative Registration Form;

(b) Submit copies of each person's recognition card who is seeking to be part of the registered cooperative;

(c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is to be located. If the property is leased or rented, a sworn statement from the property owner granting permission to engage in a cooperative must also be submitted that includes a telephone number and address where the owner can be contacted for verification;

(d) Submit a sketch outlining the location where the ~~((marijuana))~~ cannabis is planned to be grown.

(3) WSLCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the WSLCB finds that the cooperative no longer meets the criteria required under this section, the WSLCB may not renew the cooperative registration.

(4) WSLCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members and WSLCB staff.

(5) If a person or persons seeking to register the cooperative fails to meet the requirements of a registered cooperative as provided in this section, the WSLCB will deny the cooperative registration.

(6) If the WSLCB finds a registered cooperative violated the requirements of this section, the WSLCB will revoke the cooperative's registration.

(7) A person may request an administrative hearing to contest a denial of registration, nonrenewal, or a revocation of a cooperative's registration under this section as provided in chapter 34.05 RCW.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-410, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342, 69.50.345, 2016 c 170, 2016 c 171, and 2016 c 17. WSR 16-19-102, § 314-55-410, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-410, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-415 What are the recordkeeping and reporting requirements for cooperatives? (1) (~~(Marijuana)~~) Cannabis cooperatives must keep records that clearly reflect all activity, inventory, and conditions of the cooperative. The following records must be kept in a format prescribed by the WSLCB. All records must be maintained on the cooperative premises for a three-year period and must be made available for inspection if requested by an employee of the WSLCB, the department of health, the department of revenue, or local law enforcement.

(a) Cooperatives must maintain a plant log to track each (~~(marijuana)~~) cannabis plant from the time it enters the cooperative. At minimum, tracking must include:

(i) Unique plant identification numbers for each plant at the cooperative;

(ii) The date the plant was brought into the cooperative; and

(iii) The date the plant leaves the cooperative, including the reason, (e.g., harvested, destroyed, or member left the cooperative).

(b) Cooperatives must maintain a log to track all harvested plant material from time of harvest until all harvested material has been dispersed. At minimum, tracking must include:

(i) A unique identification number for each harvest;

(ii) The total dry weight of harvested material;

(iii) The date quantities are removed from the harvested material;

(iv) The amount removed from the harvested material;

(v) The reason quantities are removed from the harvested material (e.g., taken for use by qualifying patient, used for extraction, etc.); and

(vi) The current weight of the harvested material.

(c) Cooperatives must maintain a log to track all extracts produced from the time they are produced until all extracted material has been dispersed. At minimum, tracking must include:

(i) A unique identification for the extract batch;

(ii) The date the extract batch was created;

(iii) The total initial weight of the extract batch;

(iv) ID number of the harvest the material used to make the extract came from;

(v) The weight of (~~(marijuana)~~) cannabis plant material used to create the batch;

(vi) The date quantities are removed from the extract batch;

(vii) The quantity removed from the extract batch and reason; and

(viii) The current weight of the extract batch.

(2) Cooperatives must submit monthly activity report(s) to the WSLCB. The required monthly reports must be:

(a) On an electronic system designated by the WSLCB;

(b) Filed every month, including months with no activity;

(c) Submitted to the WSLCB on or before the (~~(twentieth)~~) 20th day of each month, for the previous month. (For example, a report listing activity for the month of January is due by February 20th.);

(d) Filed separately for each cooperative; and

(e) All records must be maintained and available for review for a three-year period on licensed premises.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-415, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. This section details the requirements for sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative, qualifying patients, and designated providers.

(1) Medical ((~~marijuana~~)) cannabis patients who enter into the medical ((~~marijuana~~)) cannabis authorization database established and maintained by the department of health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington state liquor and cannabis board (WSLCB) may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed ((~~marijuana~~)) cannabis producer.

(2) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical ((~~marijuana~~)) cannabis authorization database established and maintained by the department of health, may purchase immature plants or clones and seeds from a licensed ((~~marijuana~~)) cannabis producer.

(3) Members of a registered cooperative, qualifying patients, and designated providers who wish to purchase immature plants or clones and seeds from a licensed producer must:

(a) Personally go to the licensed producer to complete the purchase and transfer of any ((~~marijuana~~)) cannabis plants purchased; and

(b) Provide the following information to a licensed producer:

(i) Proof of identification in the form of a state-issued identification card or other valid government-issued identification;

(ii) A valid recognition card; and

(iii) If the person purchasing immature plants or clones or seeds is a member of a registered cooperative, a copy of the letter from the WSLCB confirming the person is a member of a registered cooperative.

(4) The physical transfer of ((~~marijuana~~)) cannabis plants between licensed producers and members of a cooperative, qualifying patients, or designated providers must take place on the premises of the licensed producer. Deliveries of ((~~marijuana~~)) cannabis plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(5) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical ((~~marijuana~~)) cannabis patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month from a licensed producer. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in chapter 69.51A RCW.

[Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-417, filed 10/31/18, effective 12/1/18.]

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-430 Qualifying patient or designated provider extraction requirements. (1) Qualifying patients or designated providers, including those participating in a cooperative, may extract or separate the resin from ((marijuana)) cannabis using only the following noncombustible methods:

(a) Heat, screens, presses, steam distillation, ice water, and other methods without employing combustible solvents or gases to create kief, hashish, or bubble hash;

(b) Dairy butter, cooking oils or fats derived from natural sources, or other home cooking substances;

(c) Food grade glycerin and propylene glycol solvent based extraction;

(d) CO₂ may be used if used in a closed loop system as referenced in WAC 314-55-104.

(2) Only food grade substances may be used in any stage of processing.

(3) Use of combustible materials including, but not limited to, butane, isobutane, propane, heptane, and ethanol is expressly forbidden.

(4) Resins extracted or separated from ((marijuana)) cannabis are for the personal use of the qualifying patient or cooperative members only.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-430, filed 5/18/16, effective 6/18/16.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-505 Administrative violation notice. (1) The board may issue an administrative violation notice without issuing a notice of correction if:

(a) The licensee is not in compliance with chapters 69.50 and 69.51A RCW, this chapter, or both, and the noncompliance poses a direct or immediate threat to public health and safety;

(b) The licensee has previously been subject to an enforcement action or written notice for a violation of the same statute or rule within the same penalty category, the notice of correction for the violation has already been issued, the licensee failed to timely comply with the notice, and such notice is not subject to a pending request to the board to extend the time to achieve compliance; or

(c) The licensee has failed to respond to prior administrative violation notices or has outstanding unpaid monetary penalties; and

(d) The board can prove by a preponderance of the evidence:

(i) Diversion of ((marijuana)) cannabis product out of the regulated market or sales across state lines;

(ii) Furnishing of ((marijuana)) cannabis product to persons under ((twenty-one)) 21 years of age;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a ((marijuana)) cannabis license based on criminal history requirements;

(iv) The commission of (~~nonmarijuana-related~~) noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or action that is, or is alleged to be, any of the violations identified in (d) (i) through (iv) of this subsection.

(2) The board will prepare an administrative violation notice and mail or deliver the notice to the licensee, licensee's agent, or employee.

(3) The administrative violation notice will include:

(a) A detailed description of the alleged violation(s);

(b) The date(s) of the violation(s);

(c) The text of the specific section or subsection of rule;

(d) An outline of the licensee's resolution options as outlined in WAC 314-55-5055; and

(e) The recommended penalty as described in this chapter, and including a description of known mitigating and aggravating circumstances considered in the penalty determination.

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-505, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-505, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-505, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-5055 Resolution options. (1) A licensee must respond to an administrative violation notice within (~~twenty~~) 20 calendar days from receipt of the notice. The response must be submitted on a form provided by the board. The licensee may:

(a) Accept the recommended penalty identified in the administrative violation notice;

(b) Request a settlement conference in writing;

(c) Request an administrative hearing in writing.

(2) (a) If a licensee does not respond to an administrative violation notice within (~~twenty~~) 20 calendar days of receipt of the notice, recommended penalties including, but not limited to, suspension, monetary penalties, and destruction of inventory may take effect on the (~~twenty-first~~) 21st day.

(b) If the recommended penalty is monetary and does not include a suspension, inventory destruction, or both, the licensee must pay a (~~twenty-five~~) 25 percent late fee in addition to the recommended monetary penalty.

(i) The board must receive payment of the monetary penalty and (~~twenty-five~~) 25 percent late fee no later than (~~thirty~~) 30 days after the administrative violation notice receipt date.

(ii) Payments received more than (~~thirty~~) 30 days after the administrative violation notice receipt date are subject to an additional (~~twenty-five~~) 25 percent late fee.

(iii) Licensees who do not respond to an administrative violation notice will not be eligible to renew their (~~marijuana~~) cannabis license.

(3) Licensees who do not pay monetary penalties for two or more administrative violation notices in a two-year period will not be eligible to renew their (~~marijuana~~) cannabis license.

(4) A licensee may request a settlement conference to discuss the board's issuance of an administrative violation notice issued under this chapter. The hearing officer or designee of the board will arrange the date, time, and place of the settlement conference. A settlement agreement provides that the licensee accepts the allegations contained in the administrative violation notice.

(a) The purpose of the settlement conference is to:

(i) Discuss the circumstances associated with the alleged violation(s), including aggravating or mitigating factors;

(ii) Discuss the recommended penalties; and

(iii) Attempt to reach agreement on the appropriate penalty and corrective action plan for the administrative violation notice.

(b) During a settlement conference, a licensee issued an administrative violation notice may request deferral of an administrative violation notice if all of the following criteria are met:

(i) The alleged violation is the first violation in a violation category;

(ii) The licensee has no other violation history in that penalty category within a two-year window; and

(iii) The licensee submits a plan to correct, remedy, or satisfy identified violations as described in the administrative violation notice including, but not limited to, monetary penalties.

(c) If the licensee is not issued any administrative violation notices or any other notice of noncompliance during the year following approval of the deferral of administrative violation, the record of administrative violation notice will not be considered for licensing renewal or penalty escalation.

(d) If the licensee is issued an administrative violation notice or any other notice of noncompliance at any time during the year following approval of the deferral of administrative violation, the record of the administrative violation notice will remain on the licensee's licensing history, and the original sanction for the deferred violation will be implemented based on the frame established in the settlement agreement, or (~~ten~~) 10 days from the date of default.

(5) The hearing officer or designee will prepare a settlement agreement. The agreement must:

(a) Include the terms of the agreement regarding an alleged violation or violations by the licensee of chapters 69.50 and 69.51A RCW, any part of chapter 314-55 WAC, and any related penalty or licensing restriction; and

(b) Be in writing and signed by the licensee or the licensee's designee and the hearing officer or designee.

(6) If a settlement agreement is entered between a licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(7) The hearing officer or designee will forward the settlement agreement to the board or designee for final approval. If the board, or designee approves the settlement agreement, a copy of the signed agreement will be sent to the licensee, and will become part of the licensing history, unless otherwise specified in this chapter.

(8) If the board, or designee, does not approve the settlement agreement, the licensee will be notified of the decision in writing. The licensee may:

(a) Renegotiate the settlement agreement with the hearing officer or designee; or

(b) Accept the originally recommended penalty; or

(c) Request a hearing on the administrative issues identified in the administrative violation notice.

(9) Monetary penalty collection. If monetary penalties are assessed as part of an administrative violation, settlement agreement, or both, licensees must submit payment to the board in a time frame established by the board, consistent with subsection (2)(a) and (b) of this section.

(a) If a licensee does not timely submit payment of any monetary fine, the board will begin collection or other appropriate action.

(b) The board will provide a notice of collection action to the licensee. The notice of collection action establishes the licensee as a debtor for purposes of debt collection.

(c) If the licensee does not respond to the notice of collection within (~~thirty~~) 30 days, the board may:

(i) Assess a (~~twenty-five~~) 25 percent late fee consistent with subsection (2)(a) of this section; and

(ii) Assign the debt to a collection agency.

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-5055, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-509 Penalty structure. (1) The board determines if a penalty will be imposed. Penalties are based on the severity of the violation in the following categories:

(a) Category I: Violations of a severity that would make a license eligible for cancellation on a first offense;

(b) Category II: Violations that create a direct or immediate threat to public health, safety, or both;

(c) Category III: Violations that create a potential threat to public health, safety, or both;

(d) Category IV: Significant regulatory violations;

(e) Category V: Procedural and operational violations;

(f) Category VI: Statutory violations.

(2) For purposes of assessing penalties, only violations occurring in the two-year time period immediately preceding the date of the violation will be considered unless otherwise provided in this chapter.

(3) The board may, at its discretion, deviate from the prescribed penalties herein. Such deviations will be determined on a case-by-case basis, considering mitigating and aggravating factors.

(a) Mitigating factors may result in a waiving or lowering of fines, civil penalties, imposition of a fine in lieu of suspension, or fewer days of suspension. Mitigating factors may include demonstrated business policies and practices that may reduce risk to public health and safety.

(b) Aggravating factors may result in increased days of suspension, increased monetary penalties, cancellation, or nonrenewal of a (~~marijuana~~) cannabis license. Aggravating factors may include ob-

structuring an investigation, business operations, behaviors, or both, that increase risk to public health and safety.

(4) For violations that occurred before the effective date of these rules, enforcement action will be based on the rules that were in effect on the date the violation occurred. Subsection (2) of this section shall apply to all enforcement actions regardless of the date the violation occurred.

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-509, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-520 Category I. Violations of a severity that would make a license eligible for cancellation on a first offense. The board may not cancel a license for a single violation, unless it can prove a Category I violation by a preponderance of the evidence.

Category I

Violations of a Severity That Would Make a License Eligible for Cancellation on the First Offense

Violation Type	1st Violation	2nd Violation in a Two-year Window
((Marijuana) Cannabis purchased from an unlicensed entity. WAC 314-55-083(4)	License cancellation	
((Marijuana) Cannabis sold to an unlicensed, nonretail source. Illegal sales out of the licensed market place. WAC 314-55-083(4)	License cancellation	
Condition of suspension violation: Failure to follow any suspension restriction while (marijuana) cannabis license is suspended. WAC 314-55-540	Original penalty plus 10-day suspension with no monetary option	License cancellation
Transportation or storage of (marijuana) cannabis to or from an unlicensed source, diversion of product, or both. WAC 314-55-083(4)	License cancellation	
Transportation of (marijuana) cannabis outside of Washington state boundaries. RCW 69.50.342 (1)(k) RCW 69.50.345(10) WAC 314-55-310(1)	License cancellation	
True party of interest (TPI). Allowing a person to exercise ownership or control if the person would not have qualified based on affiliation with a criminal enterprise as described in chapter 69.50 RCW. WAC 314-55-035(1)	License cancellation	
Financier. Receiving money from a financier that was not disclosed to or approved by the board when the financier has a criminal history demonstrating an affiliation with criminal enterprises, gangs, or cartels; or the money provided by a financier originated from criminal enterprises, gangs, or cartels. WAC 314-55-035(4)	License cancellation	

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-520, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-520, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-520, 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, § 314-55-520, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-521 Category II. Violations that create a direct or immediate threat to public health, safety, or both.

**Category II
Violations That Create a Direct or Immediate Threat to Public Health,
Safety, or Both**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Furnishing to persons under twenty-one years of age, except as allowed in RCW 60.50.357. RCW 69.50.354 WAC 314-55-079(1)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct, or both. Disorderly conduct, or apparent intoxication of a licensee or employee, or permitting on premises. Title 9 RCW Title 9A RCW WAC 314-55-110 (4)(b)	5-day suspension or \$1,250 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation
Operating an unapproved CO² or hydrocarbon extraction system. WAC 314-55-104	\$10,000 monetary fine	License cancellation		
Intentional use of unauthorized pesticides, soil amendments, fertilizers, other crop production aids. RCW 69.50.342 WAC 314-55-084	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected ((<u>marijuana</u>)) <u>cannabis</u>	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected ((<u>marijuana</u>)) <u>cannabis</u>	License cancellation	
Adulterated ((<u>usable marijuana</u>)) <u>useable cannabis with organic or nonorganic chemical or other compound.</u> WAC 314-55-077 (5)(b) WAC 314-55-101	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine and destruction of affected ((<u>marijuana</u>)) <u>cannabis</u>	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$22,500 monetary fine and destruction of affected ((<u>marijuana</u>)) <u>cannabis</u>	License cancellation	

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Transportation of ((marijuana)) cannabis without a manifest. WAC 314-55-085(3) WAC 314-55-096 (1) and (2) WAC 314-55-105(2) WAC 314-55-310(3)	Retail/transporter: \$1,250 monetary fine Producer/processor: Tier 1: \$1,250 Tier 2: \$2,500 Tier 3: \$5,000 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	License cancellation	
Obstruction: Misrepresentation of fact; not permitting physical presence. WAC 314-55-185	10-day suspension or \$7,500 monetary option	30-day suspension	License cancellation	
Failure to use and maintain traceability, or both: Including, but not limited to, failure to maintain records for flowering plant, finished product, any post-harvest product, any plant not on approved floor-plan, or not tagged, reusing identifier. WAC 314-55-083(4)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary fine	10-day suspension or \$5,000 monetary fine	License cancellation
Pickup, unload, or delivery at an unauthorized location. WAC 314-55-085 (5)(f) WAC 314-55-310	Retail/transportation: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine	License cancellation	

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-521, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-522 Category III. Violations that create a potential threat to public health, safety, or both.

**Category III
Violations That Create a Potential Threat to Public Health, Safety, or Both**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Driver transporting without a valid driver's license. WAC 314-55-310 (5)(a)	5-day suspension or \$1,250 monetary option	10-day suspension	30-day suspension	License cancellation

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
<p>Exceeding maximum serving requirements for ((marijuana-infused)) cannabis-infused products. WAC 314-55-095 (1)(a) and (b)</p> <p>Exceeding transaction limits. WAC 314-55-095 (2)(c)</p>	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	License cancellation
<p>Failure to follow and maintain food processing facility requirements. RCW 69.50.342 (1)(a) and (c) WAC 314-55-077 (4)(b) WAC 246-70-070 (1) and (2)</p>	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
<p>Failure to maintain required surveillance system. WAC 314-55-083(3)</p>	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
<p>Retail sales: Unauthorized ((marijuana-infused)) cannabis-infused products. WAC 314-55-077 (9)(a) and (b)</p>	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 option	30-day suspension
<p>True party of interest: Allowing a person to exercise ownership or control who has not been disclosed to the board, and would have failed for any reason. WAC 314-55-035</p>	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
<p>Financier. Receiving money from a financier that was not disclosed to or approved by the board when the financier or the source of funds would not have qualified for any reason. WAC 314-55-035</p>	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
<p>Obstruction: Failure to furnish records. WAC 314-55-185 (1)(c)</p>	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension	60-day suspension
<p>Failure to use traceability, maintain traceability, or both for quality assurance testing, including pesticide testing, potency testing, or both. WAC 314-55-083 (4)(k)</p>	\$1,250 monetary fine	\$2,500 monetary fine	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with ((marijuana)) cannabis processor extraction requirements. WAC 314-55-104	\$1,250 monetary fine	\$2,500 monetary fine	\$7,500 monetary fine	\$15,000 monetary fine
Sales in excess of transaction limits. WAC 314-55-095 (2)(c)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-522, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-523 Category IV. Violations that are significant regulatory violations.

**Category IV
Significant Regulatory Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with record keeping requirements. WAC 314-55-087	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
((Marijuana)) Cannabis illegally given away, including being sold below the cost of acquisition, true value, or both. WAC 314-55-017(3) WAC 314-55-018 (2)(f) WAC 314-55-018(5) WAC 314-55-077 (1)(b)	\$500 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Use of an unauthorized money transmitter. WAC 314-55-115(5)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Misuse or unauthorized use of ((marijuana)) cannabis license (operating outside of license class). RCW 69.50.325	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Selling or purchasing ((marijuana)) cannabis on credit. WAC 314-55-018 WAC 314-55-115	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Engaging in nonretail conditional sales, prohibited practices, or both. WAC 314-55-017(1) WAC 314-55-018	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Operating/floor plan: Violations of a WSLCB approved operating plan. WAC 314-55-020 (11)(a)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Failure to maintain required insurance. WAC 314-55-082 WAC 314-55-310	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Unauthorized sale to a retail licensee (processor). RCW 69.50.360 RCW 69.50.363 WAC 314-55-077 WAC 314-55-083(4)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$30,000 monetary fine	Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine
Packaging and labeling. WAC 314-55-105	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Unauthorized or unapproved product storage or delivery (processor/producer). WAC 314-55-085(5)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized or unapproved product storage or delivery (transporter). WAC 314-55-310 (5)(d)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Failure to meet ((marijuana)) cannabis waste disposal requirements. WAC 314-55-097	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (processors/producers: Vendor, educational, and internal quality control samples). WAC 314-55-096	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (retail). WAC 314-55-096(5) WAC 314-55-096(6)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain required security alarm. WAC 314-55-083(2)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-523, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-524 Category V. Violations that are procedural and operational.

**Category V
Procedural and Operation Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Hours of service: Sales of ((marijuana)) cannabis between 8:00 a.m. and 12:00 a.m. WAC 314-55-147	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension
General advertising violations. RCW 69.50.369 WAC 314-55-155	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Engaging in conditional sales. WAC 314-55-017(2)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option
Licensee, employee, or both failing to display identification badge. WAC 314-55-083(1)	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Failure to post required signs. WAC 314-55-086	\$250 monetary fine	5-day suspension or \$500 monetary option	10-day suspension or \$1,250 monetary option	30-day suspension or \$2,500 monetary option
Unauthorized change of business name. WAC 314-55-130	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$5,000 monetary option
Transporting ((marijuana)) cannabis in an unauthorized vehicle. WAC 314-55-085(5) WAC 314-55-310	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retail/transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Exceeding maximum delivery time frame. WAC 314-55-085 WAC 314-55-083 (4)(d)	\$1,250 monetary fine	Retail/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/Transporter: 10-day suspension Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain standardized scale requirements (producer/processor). WAC 314-55-099	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized driver or passenger. WAC 314-55-310 (5)(a)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Transportation of ((marijuana)) cannabis without an accurate manifest. WAC 314-55-085(3) WAC 314-55-310(3)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Load exceeding maximum delivery amount. RCW 69.50.385(3) WAC 314-55-083 (4)(d) WAC 314-55-085(1)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension	30-day suspension
Retail sales: Accepting returns. WAC 314-55-079(12)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension
Failure to use traceability, maintain traceability, or both. (e.g., failure to comply with traceability requirements for clones, seeds; illegal or folded tags; movement within a location) WAC 314-55-083(4)	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine	Retail/transporter: 60-day suspension Producer/processor: Tier 1: \$20,000 Tier 2: \$40,000 Tier 3: \$60,000 monetary fine
True party of interest (TPI): Allowing a person not disclosed to the board who would have qualified to exercise ownership or control, or allowing a TPI previously approved by the board to provide funds without disclosure. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Financier. Receiving money from a financier previously approved by the board that was not timely disclosed to the board or that was timely disclosed to the board but the source could not be verified. WAC 314-55-035(XX)	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	Retail/transporter: 10-day suspension or \$5,000 monetary option Producer/Processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$20,000 monetary fine	Retail/transporter: 30-day suspension Producer/processor: Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-524, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-525 Category VI. Statutory penalty violations.

**Category VI
Statutory Penalty Violations**

Allowing a minor to frequent a retail store. RCW 69.50.357(2)	\$1,000 monetary fine
Allowing persons under twenty-one years of age to frequent a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine
Employee under legal age. RCW 69.50.357(2)	\$1,000 monetary fine
Opening or consuming ((marijuana)) cannabis on a licensed retail premises, or both. RCW 69.50.357(4)	\$1,000 monetary fine
Retail outlet selling unauthorized products. RCW 69.50.357 (1)(a)	\$1,000 monetary fine

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-525, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-525, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-525, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-525, 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, § 314-55-525, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 20-03-177, filed 1/22/20, effective 2/22/20)

WAC 314-55-540 ((Marijuana)) Cannabis license suspensions. (1)

On the effective date of a ((marijuana)) cannabis license suspension, a board enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the board based on a violation of applicable law or rule.

(2) During the period of ((marijuana)) cannabis license suspension, the licensee and employees:

(a) Are required to comply with all applicable laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the board's suspension notice.

(3) During the period of ((marijuana)) cannabis license suspension a ((marijuana)) cannabis licensee:

(a) May not operate their business.

(b) May not sell, deliver, service, destroy, remove, or receive ((marijuana)) cannabis.

[Statutory Authority: RCW 69.50.342, 69.50.345, and 2019 c 394. WSR 20-03-177, § 314-55-540, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-540, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-540, filed 10/21/13, effective 11/21/13.]

AMENDATORY SECTION (Amending WSR 21-05-075, filed 2/17/21, effective 3/20/21)

WAC 314-55-550 ((Marijuana)) Cannabis vapor products. (1) The purpose of this section is to:

(a) Support and further the protection of public health and prevention of youth access consistent with RCW 69.50.101(xx).

(b) Mitigate the risks to public health and youth access by prohibiting the use of any additive, solvent, ingredient, or compound in ((marijuana)) cannabis vapor product production and processing when appropriate, consistent with RCW 69.50.342 (1)(m).

(c) Mitigate the risks to public health and youth access by prohibiting any device used in conjunction with a ((marijuana)) cannabis vapor product when appropriate, consistent with RCW 69.50.342 (1)(n).

(2) Procedure for prohibited substances.

(a) The board may prohibit any type of device used in conjunction with a ((marijuana)) cannabis vapor product, and may prohibit the use of any type of additive, solvent, ingredient, or compound in the production of ((marijuana)) cannabis vapor products that may pose a risk to public health or youth access.

(b) The board may consider, following consultation with the department of health or other authority the board deems appropriate, any relevant data when determining whether a device, additive, solvent, ingredient or compound may pose a risk to public health or youth access including, but not limited to:

(i) Case report data;

(ii) Other local, state and federal agency findings, reports, etc.;

(iii) A product or substance that is the subject of a recall under WAC 314-55-225;

(iv) Any other information sourced and confirmed from reliable entities.

(c) The board may prohibit the use of a product or substance by adoption of emergency or permanent rules. The board will provide notices of rule making consistent with the requirements of chapter 34.05 RCW.

(d) The board will maintain a list of prohibited substances prohibited by permanent or emergency rules on its website.

(e) The list of prohibited substances will be reviewed on an annual basis.

(f) Prohibited substances may be removed from the list of prohibited substances if the board determines, after a review consistent with (b)(i) through (iv) of this subsection, that it no longer poses a risk to public health or youth access.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-05-075, § 314-55-550, filed 2/17/21, effective 3/20/21.]

AMENDATORY SECTION (Amending WSR 22-02-071, filed 1/5/22, effective 2/5/22)

WAC 314-55-560 Evaluation of additives, solvents, ingredients or compounds used in the production of ((marijuana)) cannabis products.

(1) **Purpose and scope.** The purpose of this section is to establish a procedure for the board to evaluate additives, solvents, ingredients or compounds used in the production of ((marijuana)) cannabis products, as those products are defined in chapter 69.50 RCW.

(2) **Definitions.** For purposes of this chapter, the following definitions apply unless the context clearly states otherwise:

(a) "Additive" means any substance the use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any ((marijuana)) cannabis product;

(b) "Compound" means a chemical substance composed from more than one separate chemical element;

(c) "Ingredient" means something that enters into a mixture or is a component part of any combination or mixture;

(d) "((Nonmarijuana)) Noncannabis additive" means a substance or a group of substances that are derived from a source other than ((marijuana)) cannabis.

(i) "((Nonmarijuana)) Noncannabis additive" includes, but is not limited to, purified compounds, essential oils, oleoresins, essences, or extractives, protein hydrolysates, distillates, or isolates;

(ii) "((Nonmarijuana)) Noncannabis additive" does not include plant material that is in the whole, broken, or ground form.

(e) "Solvent" means a substance capable of being used in dissolving a solute with the exception of water.

(3) **Procedure.**

(a) The board may prohibit the use of any additive, solvent, ingredient or compound in the production of ((marijuana)) cannabis products that may pose a risk to public health or youth access including, but not limited to:

(i) Verifiable case report data;

(ii) Other local, state and federal agency findings, reports, etc.;

(iii) A product or substance that is the subject of a recall under WAC 314-55-225;

(iv) Any other information sourced and confirmed from reliable entities.

(b) The board may prohibit the use of a product or substance by adoption of emergency or permanent rules. The board will provide notices of rule making consistent with the requirements of chapter 34.05 RCW.

(c) The board will maintain a list of prohibited substances prohibited by emergency or permanent rules on its website.

(d) The list of prohibited substances will be reviewed on at least an annual basis.

(e) Prohibited substances may be removed from the list of prohibited substances if the board determines, after a review consistent with (a)(i) through (iv) of this subsection, that it no longer poses a risk to public health or youth access.

[Statutory Authority: RCW 69.50.342 (1)(m), 69.50.345. WSR 22-02-071, § 314-55-560, filed 1/5/22, effective 2/5/22.]

OTS-3722.1

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-015 Agency description—Contact information. (1)(a) The Washington state liquor and cannabis board (WSLCB) is an agency created to exercise the police power of the state in administering and enforcing laws and regulations relating to alcoholic beverage control (Title 66 RCW), (~~(marijuana)~~) cannabis (chapter 69.50 RCW), tobacco (chapter 70.155 RCW), and vapor products (chapter 70.345 RCW).

(b) The board issues licenses relating to liquor, (~~(marijuana)~~) cannabis, tobacco, and vapor products; and collects taxes imposed on liquor and (~~(marijuana)~~) cannabis.

(c) The WSLCB is responsible for enforcing laws preventing access to tobacco products by persons under the age of (~~(eighteen)~~) 18 years (chapter 70.155 RCW). The board enforces the tobacco tax laws and the department of revenue administers tobacco tax laws (chapters 82.24 and 82.26 RCW).

(2) The Washington state liquor and cannabis board is organized into seven divisions:

- (a) Board administration;
- (b) Director's office;
- (c) Licensing and regulation;
- (d) Enforcement and education;
- (e) Finance;
- (f) Information technology; and
- (g) Human resources.

(3)(a) The administrative offices of the Washington state liquor and cannabis board are located at 3000 Pacific Avenue Southeast, Olympia, Washington 98504-3080.

(b) WSLCB staff is also located at enforcement offices maintained in major cities throughout the state.

Enforcement offices addresses and contact numbers are located on the WSLCB's website at www.lcb.wa.gov.

(4) An organizational chart is available from the board's public records office which illustrates the general structure of the WSLCB's operations. More information on the construct of the WSLCB is also available on the WSLCB's website at www.lcb.wa.gov.

[Statutory Authority: RCW 42.56.120, 34.05.220, 42.56.040, 66.08.030, and 66.08.050. WSR 18-05-006, § 314-60-015, filed 2/7/18, effective 3/10/18. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-015, filed 3/13/09, effective 4/13/09.]

WSR 22-10-065
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed May 3, 2022, 8:58 a.m.]

Title of Rule and Other Identifying Information: Reference corrections regarding fall protection. Reference corrections are being made to WAC 296-155-54800 Design of platforms and suspension systems, 296-155-655 General protection requirements, 296-155-688 Vertical slip forms, and 296-305-05502 Training and member development.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On October 1, 2020, chapter 296-155 WAC, Part C-1, Fall protection requirements for construction, was repealed and chapter 296-880 WAC, Unified safety standards for fall protection, became effective (WSR 20-12-091). Since October 1, 2020, the department has become aware that these references were not changed in the original rule-making activity. In order to create clarity and provide accuracy, the references below must be corrected.

AMENDED SECTIONS:

WAC 296-155-54800 Design of platforms and suspension systems. In subsection (7) removed "Part C-1 of this chapter" and replaced with "chapter 296-880 WAC."

WAC 296-155-655 General protection requirements. In subsection (7) (a) removed "C-1" and added "chapter 296-880 WAC."

WAC 296-155-688 Vertical slip forms. In subsection (9) removed "296-155 WAC, Part C-1" and replaced with "296-880 WAC."

WAC 296-305-05502 Training and member development. In subsection (5) removed 296-155 WAC, ["Part C-1" and replaced with "296-880 WAC."

Reasons Supporting Proposal: The proposed rule making is needed to aid employers and the public to [find] accurate and updated references in WAC.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries (L&I), governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making is limited to correct-

ing reference errors and has no material change to federal or state statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmyn Shute, Administrative Regulations Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-6081, fax 360-902-5619, email Carmyn.Shute@Lni.wa.gov, AND RECEIVED BY 5:00 p.m. on July 5, 2022.

May 3, 2022
Joel Sacks
Director

OTS-3718.1

AMENDATORY SECTION (Amending WSR 18-22-116, filed 11/6/18, effective 12/7/18)

WAC 296-305-05502 Training and member development. (1) The employer must provide training, education and ongoing development for all members commensurate with those duties and functions that members are expected to perform.

(a) Training and education must be provided to members before they perform emergency activities.

(b) Fire service leaders and training instructors must be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(c) The fire department must develop an ongoing proficiency cycle with the goal of preventing skill degradation.

(2) Training on specific positions/duties deemed by the fire department critical to the safety of responders and the effectiveness of emergency operations (such as driver operators or support personnel) must be provided at least annually.

(3) Firefighters must be trained in the function, care, use/operation, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) Members who are expected to perform interior structural firefighting must be provided with an education session or training at least quarterly.

(5) When firefighters are engaged in training above the (~~ten-foot~~) 10-foot level, where use of lifelines or similar activities are to be undertaken, a safety net or other approved secondary means of fall protection recommended in chapter (~~(296-155 WAC, Part C-1, fall protection requirements for construction)~~) 296-880 WAC, Unified safety standards for fall protection, must be used.

(6) Continuing education live fire training.

(a) All members who engage in interior structural firefighting in IDLH conditions must be provided live fire training appropriate to their assigned duties and the functions they are expected to perform at least every three years. Firefighters who do not receive this training in a three-year period will not be eligible to return to an interior structural firefighting assignment until they do. Responding to a fire scene with a full alarm assignment, an ICS established and a post-incident analysis will meet this requirement, but for no more than two training evolutions.

(b) All live fire training must be conducted by fire department qualified fire service instructors. When conducting their own training, fire departments must meet the requirements set out in the 2007 edition of the NFPA 1403, Standard on Live Fire Training Evolutions.

(c) An incident safety officer must be appointed for all live fire training evolutions. The incident safety officer function must be filled by a person who is trained and qualified in the IMS/Incident safety officer duties and who is not responsible for any other function at the training evolution other than the role of incident safety officer.

(7) When using structures for live fire suppression training, activities must be conducted according to the 2007 edition of NFPA 1403, Standard on Live Fire Training Evolutions. When using structures for nonlive fire training, the following requirements must be met:

(a) All structures used for training must be surveyed for potential hazardous substances, such as asbestos, prior to the initiation of any training activities. The survey must comply with chapter 296-62 WAC Part I-1 and must be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E. If the hazardous substances or asbestos containing materials of > 1% asbestos are to be disturbed during any training activity they must be removed prior to beginning that activity. Removal of asbestos < or =1% is not required prior to live fire training.

In live fire training structures where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site.

For structures built before 1978, you must assume that painted surfaces are likely to contain lead and inform workers of this presumption. Surveys for lead containing paints are not required. Lead containing paints are not required to be removed prior to training activities.

If the training activity will not disturb the hazardous substance, the material must be clearly marked and all participants must be shown the location of the substance and directed not to disturb the materials.

(b) Acquired or built structures used for fire service training that does not involve live fire must be surveyed for the following hazards and those hazards abated prior to the commencement of training activities:

(i) In preparation for training, an inspection of the training building must be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(ii) Hazardous materials and conditions within the structure must be removed or neutralized, except as exempted in (a) of this subsection.

(A) Closed containers and highly combustible materials must be removed.

(B) Oil tanks and similar closed vessels that cannot easily be removed must be vented sufficiently to eliminate an explosion or rupture.

(C) Any hazardous or combustible atmosphere within the tank or other vessel must be rendered inert.

(D) Floor openings, missing stair treads or railings, or other potential hazards must be repaired or made inaccessible.

(iii) If applicable, floors, railings and stairs must be made safe. Special attention must be given to potential chimney hazards.

(iv) Debris hindering the access or egress of firefighters must be removed before continuing further operations.

(v) Debris creating or contributing to unsafe conditions must be removed before continuing further operations.

(c) Asbestos training. Firefighters must be provided asbestos awareness training, including communication of the existence of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM). Training must be provided prior to initial assignment and annually thereafter, and must include:

(i) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(ii) Examples of different types of asbestos and asbestos-containing materials to include flooring, wall systems, adhesives, joint compounds, exterior siding, fire-proofing, insulation, roofing, etc. Real asbestos must be used only for observation by trainees and must be enclosed in sealed unbreakable containers.

(iii) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(iv) Instruction on how to recognize damaged, deteriorated, and delamination of asbestos-containing building materials.

(v) Decontamination and clean-up procedures.

(vi) Types of labels that are used within different industries to identify ACM or PACM that is present within structures. The labeling system the employer will use during training to identify asbestos and ACM/PACM during destructive drilling and training.

(vii) The location and types of ACM or PACM within any fire department owned or leased structures and the results of any "Good Faith Survey" done on fire department owned or leased structures.

(8) Asbestos exposure during destructive training activities. Fire department employees are exempt from the requirements of chapter 296-65 WAC and WAC 296-62-077, provided they comply with the following requirements:

(a) Fire departments must obtain a good faith asbestos inspection/survey from the property owner/agent prior to disturbing building materials. The good faith survey must comply with chapter 296-62 WAC Part I-1 and must be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E.

(b) Good faith surveys must be shared with all employers and employees prior to using any structure.

(c) Materials containing >1% asbestos must be marked by a system recognized by all members. ACM/PACM may not be disturbed prior to, or during training, or must be removed by a certified asbestos abatement contractor prior to training activities. The incident safety officer for the training must walk all participants through the structure and inform them of the location of all ACM/PACM and that this material is

not to be disturbed. If the structure is used for a black-out drill, the incident safety officer must instruct members that ACM/PACM is present and take precautions to ensure these materials are not disturbed during the training. A walk through is not required for black-out drills.

(d) Destructive drilling must not occur in a structure until the fire department has received a good faith asbestos survey from the owner/agent and ensured that any ACM or PACM has been abated from substrates upon which destructive drill tasks are planned to be performed. All suspect asbestos materials designated for destructive drill tasks will be identified, evaluated and tested by an accredited AHERA lab.

(e) Materials containing $\leq 1\%$ asbestos must be labeled by a system recognized by all members. Prior to initiating any destructive drilling on materials containing $\leq 1\%$ asbestos, the incident safety officer for the training must walk all participants through the structure and inform them of the location of asbestos.

(f) Firefighters must wear SCBA and turnouts whenever exposed to asbestos.

(g) Firefighters must be provided gross decontamination at the drill site by rinsing/brushing the firefighters turnouts and SCBA with water.

(h) Hand tools and other asbestos contaminated equipment will be rinsed off prior to being returned to the apparatus or service. Tools and equipment that cannot be decontaminated on site must be placed in sealed containers until they can be decontaminated. Care must be taken to not spread the asbestos.

(i) PPE that may have been contaminated with asbestos must be cleaned in a manner recommended by the manufacturer and that prevents the exposure of the employee cleaning the PPE. PPE that cannot be cleaned on-site must be placed in sealed containers until they can be decontaminated.

(j) In structures scheduled for demolition, or that will be turned over to another employer, where $\leq 1\%$ asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site. The fire department will inform the owner/agent, in writing, that access to the property must be limited to the demolition or asbestos contractor.

(k) The fire department will secure the structure after all drills and at the conclusion of the use of the structure. Securing the structure may include but not be limited to, locking or boarding up windows, doors, and wall and roof openings. The site of the structure may also require fencing. When asbestos material of $\leq 1\%$ has been disturbed by the fire department's drill activities, the site will be posted with warning signs. These signs will notify entrants onto the site that asbestos debris of $\leq 1\%$ has been left on the site. For fire department members who plan to enter the structure or the building footprint, the signs will state the necessity of full turn-outs and SCBA with decontamination procedures. The signs will also state that entry into the building or the building footprint is prohibited by any persons other than the fire department and the demolition/abatement contractor.

(9) Additional training. Training must be provided on topics according to the job duties and potential hazards as outlined in Table 2, Subject Specific Training.

Table 2 Subject Specific Training	
Topic	Training requirements found in:
HEALTH AND SAFETY	
Noise and hearing loss prevention	<ul style="list-style-type: none"> • Chapter 296-817 WAC, Hearing loss prevention (noise) • WAC 296-305-02004
Respiratory equipment	<ul style="list-style-type: none"> • Chapter 296-842 WAC, Respirators • WAC 296-305-04001
Employee right-to-know procedures	<ul style="list-style-type: none"> • WAC 296-901-14016 Employee information and training
Identification and handling of asbestos-containing materials likely to be encountered during a fire response	<ul style="list-style-type: none"> • WAC 296-62-07722(5) as appropriate to asbestos encountered during a fire response, or EPA awareness level asbestos two hour training course
FIRE SUPPRESSION	
Overhaul procedures and operations	<ul style="list-style-type: none"> • WAC 296-305-05000 and 296-305-05002
Live fire training in structures	<ul style="list-style-type: none"> • NFPA 1403, Standard on Live Fire Training Evolutions, 2007 Edition
Wildland fires	<ul style="list-style-type: none"> • WAC 296-305-07010 through 296-305-07018 • The National Wildfire Coordination Group (NWCG) firefighter II • All training for assigned wildland incident command positions must be completed prior to assignment by the IC
INCIDENT MANAGEMENT	
Incident management training	<ul style="list-style-type: none"> • National Incident Management System • NFPA 1561, Standard on Emergency Services Incident Management System, 2008 edition (available on-line)
EMERGENCY MEDICAL	
Emergency medical training	<ul style="list-style-type: none"> • WAC 296-305-02501
HAZARDOUS MATERIALS	
Hazardous materials training	<ul style="list-style-type: none"> • Chapter 296-824 WAC, Emergency response • Nonconflicting portions of NFPA 472, Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, 2008 edition
TECHNICAL RESCUE	
Confined space entry and/or rescue	<ul style="list-style-type: none"> • Chapter 296-809 WAC, Confined spaces

Table 2 Subject Specific Training	
Topic	Training requirements found in:
	<ul style="list-style-type: none"> • WAC 296-305-05004 • Nonconflicting portions of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
Other technical rescue situations, such as rope, structural collapse, transportation/machinery, trench, water, and wilderness rescue	<ul style="list-style-type: none"> • NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
POSITION SPECIFIC DEVELOPMENT	
Aircraft	<ul style="list-style-type: none"> • NFPA 402, Guide for Aircraft Rescue and Firefighting Operations, 2008 edition
Driver training	<ul style="list-style-type: none"> • WAC 296-305-04505(8)

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 18-22-116, § 296-305-05502, filed 11/6/18, effective 12/7/18; WSR 17-02-066, § 296-305-05502, filed 1/3/17, effective 2/3/17. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 29 C.F.R. 1910.156, Fire brigades. WSR 13-05-070, § 296-305-05502, filed 2/19/13, effective 1/1/14.]

OTS-3717.1

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-155-54800 Design of platforms and suspension systems.

(1) Employers that manufacture personnel platforms and/or their suspension systems must be designed, constructed and tested according to ASME B30.23-2005, Personnel Lifting Systems. The design and manufacturer's specifications must be made by a registered professional engineer. Personnel platforms manufactured prior to the effective of this section must comply with ASME B30.23-1998.

(2) Only the crane/derrick manufacturer may approve the design and installation procedures for platform mounting attachment points on lattice type boom cranes and lattice type boom extensions. The design

and installation procedures, for platform mounting attachment points on other types of cranes/derricks must be approved by their manufacturer or an RPE. All approvals must be in writing.

(3) Platform mounting attachments on the crane/derrick must be designed to protect against disengagement during lifting operation.

(4) The system used to connect the personnel platform to the equipment must allow the platform to remain within 10 degrees of level, regardless of boom angle.

(5) The suspension system must be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(6) The personnel platform itself (excluding the guardrail system and personal fall arrest system anchorages), must be capable of supporting, without failure, its own weight and at least 5 times the maximum intended load.

(7) The personnel platform must be equipped with a guardrail system which meets the requirements of (~~Part C-1 of this~~) chapter 296-880 WAC, and must be enclosed at least from the toeboard to mid-rail with either solid construction material or expanded metal having openings no greater than one-half inch (1.27 cm). Points to which personal fall arrest systems are attached must meet the anchorage requirements in chapter 296-880 WAC, Unified safety standards for fall protection.

(8) You must install a grab rail inside the entire perimeter of the personnel platform except for access gates/doors.

(9) **Access gates/doors.** If installed, access gates/doors of all types (including swinging, sliding, folding, or other types) must:

(a) Not swing outward. If due to the size of the personnel platform, such as a one-person platform, it is infeasible for the door to swing inward and allow safe entry for the platform occupant, then the access gate/door may swing outward.

(b) Be equipped with a device that prevents accidental opening.

(10) Headroom must be sufficient to allow employees to stand upright in the platform.

(11) In addition to the use of hard hats, employees must be protected by overhead protection on the personnel platform when employees are exposed to falling objects. The platform overhead protection must not obscure the view of the operator or platform occupants (such as wire mesh that has up to one-half inch openings), unless full protection is necessary.

(12) All edges exposed to employee contact must be smooth enough to prevent injury.

(13) An identification plate must be located on the platform. The location must protect against damage and allow easy viewing from both interior (while hoisted) and exterior (while not hoisted) of the platform.

(14) The inspection plate must display the following information:

(a) Manufacturer's name and address;

(b) Platform rating in terms of weight and personnel;

(c) Platform identification number;

(d) Suspension system description for suspended platforms, or the intended crane/derrick manufacturer and model for boom attached platforms;

(e) Weight of the empty platform and its suspension system;

(f) Date the platform was manufactured;

(g) Certification of compliance to the design, construction, and testing requirements of ASME B30.23-2005, Personnel Lifting Systems;

(h) Listing of any unique operational environments for which the platform has been designed.

(15) For suspended platforms, the suspension system must be sized by the platform manufacturer, and its installed sling angle established, so as not to cause damage to the platform. Suspension systems must comply with the following:

(a) Hooks and other detachable devices.

(i) Hooks used in the connection between the hoist line and the personnel platform (including hooks on overhaul ball assemblies, lower load blocks, bridle legs, or other attachment assemblies or components) must be:

(A) Of a type that can be closed and locked, eliminating the throat opening.

(B) Closed and locked when attached.

(ii) Shackles used in place of hooks must be of the alloy anchor type, with either:

(A) A bolt, nut and retaining pin, in place; or

(B) Of the screw type, with the screw pin secured from accidental removal.

(iii) Where other detachable devices are used, they must be of the type that can be closed and locked to the same extent as the devices addressed in subsection (a) of this section. You must close and lock devices when attached.

(b) When a rope bridle is used to suspend the personnel platform, each bridle leg must be connected to a master link or shackle (see (a) of this subsection) in a manner that ensures that the load is evenly divided among the bridle legs.

(c) Eyes in wire rope slings shall be fabricated with thimbles.

(d) Wire rope sling suspension systems with pored socket end connections, if used, must be designed in accordance with the manufacturer's or qualified person's application instructions.

(e) All sling suspension systems must utilize a master link for attachment to the crane/derrick hook or bolt type shackle with cotter pin.

(f) You must not use synthetic webbing or natural or synthetic fiber rope slings for suspension systems.

(g) Suspension system legs must be designed and sized according to ASME B30.23-2005.

(h) Wire rope sling suspension systems must have each leg of the system permanently marked with the rated load of the leg. The master link in the system must be permanently marked with the suspension system's rated load and identification as a personnel lifting platform suspension component.

(i) Rigging hardware (including wire rope, shackles, rings, master links, and other rigging hardware) and hooks must be capable of supporting, without failure, at least 5 times the maximum intended load applied or transmitted to that component. A sling made from rotation resistant rope is prohibited.

(j) You must use bridles and associated rigging for suspending the personnel platform only for the platform and the necessary employees, their tools and materials necessary to do their work, and you must not use it for any other purpose when not hoisting personnel.

(16) Overhead protection, when provided for a platform, must allow for a clear view of the crane/derrick components directly overhead, from any position in the platform. Any openings designed in the overhead protection must not allow a sphere of greater than 0.5 in (13 mm) to pass through.

(17) All welding of the personnel platform and its components must be performed by a certified welder familiar with the weld grades, types and material specified in the platform design.

(18) Bolted connections of load sustaining members or components of the platform must be in accordance with the AISC Specification for Structural Joints Using ASTM A 325 or A 490 Bolts.

(19) You must provide a weatherproof compartment suitable for storage of the operator's manual and assorted other documents, or a weatherproof placard displaying the operator's manual, and readable from the platform, when motion controls that are operational from the platform are installed.

(20) Motion controls, if installed on the platform, must:

- (a) Be clearly identified as to their function;
- (b) Be protected from inadvertent actuation;
- (c) Be inside the platform and readily accessible to the operator;
- (d) When possible be oriented and move in the approximate direction of the function that they control;
- (e) Return to their neutral position and stop all motion when released.

(21) Boom motion controls, if provided, must additionally:

- (a) Include a control that must be continuously activated for controls to be operational;
- (b) Include an emergency stop control that does not require continuous actuation for a stop condition;
- (c) Have motion controls, accessible at ground level, that can override platform controls.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-155-54800, filed 6/2/20, effective 10/1/20. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-54800, filed 4/19/16, effective 5/20/16. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.440, 49.17.060, and 29 C.F.R. 1926, Subpart CC. WSR 12-01-086, § 296-155-54800, filed 12/20/11, effective 2/1/12.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-155-655 General protection requirements. (1) **Surface encumbrances.** You must remove or support surface encumbrances that are located so as to create a hazard to employees, as necessary, to safeguard employees.

(2) **Underground installations.**

(a) You must locate utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, prior to opening an excavation.

(b) You must contact utility companies or owners within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, you must determine the exact location of the installations by safe and acceptable means.

(d) While the excavation is open, you must protect underground installations, supported, or removed as necessary to safeguard employees.

(3) **Access and egress.**

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations must be designed by a competent person. Structural ramps used for access or egress of equipment must be designed by a competent person qualified in structural design, and must be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members must have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways must be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members must be attached to the bottom of the runway or must be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps must be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress must be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) **Exposure to vehicular traffic.** You must provide employees exposed to vehicular traffic with, and they must wear, high-visibility garments meeting the requirements of WAC 296-155-200, General requirements for personal protective equipment (PPE).

(5) **Exposure to falling loads.** You must not permit any employee underneath loads handled by lifting or digging equipment. You must require employees to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) **Warning system for mobile equipment.** When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, you must utilize a warning system such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) **Hazardous atmospheres.**

(a) Testing and controls. In addition to the requirements set forth in parts B-1(~~(, C, and C-1)~~) and C of this chapter (296-155 WAC) and chapter 296-880 WAC to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, you must test the atmospheres in the excavation before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) You must take adequate precautions to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation in accordance with chapter 296-842 WAC.

(iii) You must take adequate precaution such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 10 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, you must conduct testing as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, must be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment must be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, must wear a harness with a lifeline securely attached to it. The lifeline must be separate from any line used to handle materials, and must be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees must not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations must be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), you must use diversion ditches, dikes, or other suitable means to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, you must provide support systems such as shoring, bracing, or underpinning to ensure the stability of such structures for the protection of employees.

(b) You must not permit excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure must not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) You must provide adequate protection to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection must consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) You must protect employees from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection must be provided by placing and keeping such materials or equipment at least two feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems must be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection must be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections must also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, you must remove exposed employees from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) You must provide walkways where employees or equipment are required or permitted to cross over excavations. You must provide guardrails which comply with chapter 296-880 WAC, Unified safety standards for fall protection where walkways are 4 feet or more above lower levels.

(b) You must provide adequate barrier physical protection at all remotely located excavations. You must barricade or cover all wells, pits, shafts, etc. Upon completion of exploration and similar operations, you must backfill temporary wells, pits, shafts, etc.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-155-655, filed 6/2/20, effective 10/1/20. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-655, filed 4/19/16, effective 5/20/16. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 29 C.F.R. 1926, Subpart M, Fall Protection. WSR 13-04-073, § 296-155-655, filed 2/4/13, effective 4/1/13. Statuto-

ry Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 05-20-055, § 296-155-655, filed 10/3/05, effective 12/1/05; WSR 05-03-093, § 296-155-655, filed 1/18/05, effective 3/1/05; WSR 04-24-089, § 296-155-655, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 49.17.010, [49.17].040 and [49.17].050. WSR 99-17-094, § 296-155-655, filed 8/17/99, effective 12/1/99; WSR 99-10-071, § 296-155-655, filed 5/4/99, effective 9/1/99. Statutory Authority: RCW 49.17.040, [49.17].050 and [49.17].060. WSR 96-24-051, § 296-155-655, filed 11/27/96, effective 2/1/97. Statutory Authority: Chapter 49.17 RCW. WSR 95-10-016, § 296-155-655, filed 4/25/95, effective 10/1/95. Statutory Authority: Chapter 49.17 RCW and RCW 49.17.040, [49.17].050 and [49.17].060. WSR 92-22-067 (Order 92-06), § 296-155-655, filed 10/30/92, effective 12/8/92. Statutory Authority: Chapter 49.17 RCW. WSR 91-03-044 (Order 90-18), § 296-155-655, filed 1/10/91, effective 2/12/91. Statutory Authority: RCW 49.17.040 and 49.17.050. WSR 86-03-074 (Order 86-14), § 296-155-655, filed 1/21/86. Statutory Authority: RCW 49.17.040, 49.17.050 and 49.17.240. WSR 81-13-053 (Order 81-9), § 296-155-655, filed 6/17/81; Order 76-29, § 296-155-655, filed 9/30/76; Order 74-26, § 296-155-655, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-688 Vertical slip forms. (1) Slip forms must be designed and constructed, and the form movement carried out, under the immediate supervision of a person or persons experienced in slip form design and operation. Drawings prepared by a qualified engineer, showing the jack layout, formwork, working decks, and scaffolding, must be available at the job site, and followed.

(2) The steel rods or pipe on which the jacks climb or by which the forms are lifted must be designed for this purpose. Such rods must be adequately braced where not encased in concrete.

(3) Forms must be designed to prevent excessive distortion of the structure during the jacking operation.

(4) Vertical slip forms must be provided with scaffolding or work platforms completely encircling the area of placement.

(5) Jacks and vertical supports must be positioned in such a manner that the loads do not exceed the rated capacity of the jacks.

(6) The jacks or other lifting devices must be provided with mechanical dogs or other automatic holding devices to support the slip forms whenever failure of the power supply or lifting mechanism occurs.

(7) The form structure must be maintained within all design tolerances specified for plumbness during the jacking operation.

(8) Lifting must proceed steadily and uniformly and must not exceed the predetermined safe rate of lift. A jacking system, which provides precise, simultaneous movement of the entire form in small pre-selected increments, is recommended for large structures.

(9) Workers placing reinforcing steel must comply with the requirements of chapter ((296-155-WAC, Part C-1)) 296-880 WAC when working above the scaffold level.

(10) The total allowable load on slip form platforms must be determined by the design engineer and enforced by the field supervisor.

(11) Lateral and diagonal bracing of the forms must be provided to prevent excessive distortion of the structure during the sliding operation.

(12) While the slide is in operation, the form structure must be maintained in line and plumb.

(13) A field supervisor experienced in slip form construction must be present on the deck at all times.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-688, filed 4/19/16, effective 5/20/16; WSR 98-05-046, § 296-155-688, filed 2/13/98, effective 4/15/98. Statutory Authority: Chapter 49.17 RCW. WSR 91-03-044 (Order 90-18), § 296-155-688, filed 1/10/91, effective 2/12/91; WSR 89-11-035 (Order 89-03), § 296-155-688, filed 5/15/89, effective 6/30/89.]

WSR 22-10-066
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed May 3, 2022, 8:59 a.m.]

Title of Rule and Other Identifying Information: Repeal rules regarding subprevailing wage certificates, WAC 296-127-400 through 296-127-470.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2022 legislative session, the Washington state legislature passed SB 5763, which repealed RCW 39.12.022, which required individuals with disabilities to be paid a prevailing wage lower than applicable prevailing wage rates set by the department of labor and industries (L&I) by issuing subprevailing wage certificates. This rule making will repeal WAC 296-127-400 through 296-127-470 to align with the removal of the subject matter from the statute.

Reasons Supporting Proposal: The rule making is needed to implement SB 5763, which repealed RCW 39.12.022. RCW 39.12.022 gave authority for the rules established under WAC 296-127-400 through 296-127-470 originally adopted in 2019. L&I had not been issuing any subprevailing wage certificates and the underlying statutory authority for the rules has been repealed. The rules need to also be repealed to ensure rules on prevailing wage are up-to-date and align with prevailing wage statutes.

Statutory Authority for Adoption: Chapter 55, Laws of 2022.

Statute Being Implemented: SB 5763.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Reasa L. Pearson, Tumwater, Washington, 360-902-5331; Implementation and Enforcement: Jim Christensen, Tumwater, Washington, 360-902-5330.

This notice meets the following criteria to use the expedited repeal process for these rules:

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is appropriate because the underlying statute that gave authority for the existing rules was repealed and not replaced by another statute, nor is the subject matter covered by any other rules. SB 5763 becomes effective June 9, 2022, making the rules void on the same date. Using expedited rule making will allow for the rules on prevailing wage to be up-to-date faster to reflect the change made to the statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Reasa L. Pearson, L&I, Fraud Prevention and Labor Standards, Prevailing Wage, P.O. Box 44540, Olympia, WA 98504-4540, phone 360-902-5331, email

PrevailingWageRules@Lni.wa.gov, AND RECEIVED BY July 5, 2022, by 5:00 p.m.

May 3, 2022
Joel Sacks
Director

OTS-3763.1

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-127-400 Applicability.
- WAC 296-127-410 Definitions.
- WAC 296-127-420 Application for a subprevailing wage certificate.
- WAC 296-127-430 Conditions for granting a subprevailing wage certificate.
- WAC 296-127-440 Issuance of a subprevailing wage certificate.
- WAC 296-127-450 Terms of subprevailing wage certificate.
- WAC 296-127-460 Renewal of subprevailing wage certificate.
- WAC 296-127-470 Review.

WSR 22-10-097
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 4, 2022, 6:44 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-157 WAC, Organic food standards and certification.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to adopt the current version of the United States Department of Agriculture (USDA) organic regulations (7 C.F.R. Part 205).

The current rule adopts the July 26, 2021, version of the USDA organic regulations. This proposal updates the language to adopt the March 30, 2022, version of the federal regulation in order to remain consistent with the National Organic Program.

Reasons Supporting Proposal: Updating this chapter will ensure the rule remains compliant with RCW 15.86.060(1), which directs the director to adopt rules "... appropriate for the adoption of the national organic program." Further, this change will ensure compliance with RCW 15.86.065(3), which states the program "shall not be inconsistent with the requirements of the national organic program."

The department adopts these national standards for organically-produced agricultural products in order to remain uniform with the National Organic Program. These standards assure consumers that products with the USDA organic seal meet consistent, uniform standards that are in compliance with federal regulations.

Statutory Authority for Adoption: RCW 15.86.060(1), [15.86].065(3), [15.86].065(4).

Statute Being Implemented: Chapter 15.86 RCW.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Scott Rice, P.O. Box 42560, Olympia, WA 98504-2560, 360-359-3021; Implementation and Enforcement: Brenda Book, P.O. Box 42560, Olympia, WA 98504-2560, 360-902-2090.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Adopting the current version of 7 C.F.R. Part 205 meets the criteria for expedited adoption under RCW 34.05.353 (1)(b) by adopting federal regulations without material change.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEAR-

INGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gloriann Robinson, Agency Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560 or 1111 Washington Street S.E., Olympia, WA 98504, phone 360-902-1802, fax 360-902-2092, email WSDARulesComments@agr.wa.gov, AND RECEIVED BY July 4, 2022.

May 4, 2022
Steve Fuller
Assistant Director

OTS-3767.1

AMENDATORY SECTION (Amending WSR 21-21-027, filed 10/11/21, effective 11/11/21)

WAC 16-157-020 Adoption of the National Organic Program. The Washington state department of agriculture adopts the standards of the National Organic Program, 7 C.F.R. Part 205, effective (~~July 26, 2021~~) March 30, 2022, for the production and handling of organic crops, livestock, and processed agricultural products. The National Organic Program rules may be obtained from the department by emailing the organic program at organic@agr.wa.gov, by phone at 360-902-1805 or accessing the National Organic Program's website at <https://www.ams.usda.gov/rules-regulations/organic>.

[Statutory Authority: RCW 15.86.060(1), [15.86.]065(3), and [15.86.]065(4). WSR 21-21-027, § 16-157-020, filed 10/11/21, effective 11/11/21. Statutory Authority: RCW 15.86.060(1) and [15.86.]065(3). WSR 19-14-129, § 16-157-020, filed 7/3/19, effective 8/3/19. Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 19-01-062, § 16-157-020, filed 12/14/18, effective 1/14/19. Statutory Authority: RCW 15.86.060(1), [15.86.]065(3) and chapter 34.05 RCW. WSR 18-03-154, § 16-157-020, filed 1/23/18, effective 2/23/18. Statutory Authority: Chapter 15.86 and 34.05 RCW. WSR 09-15-152, § 16-157-020, filed 7/21/09, effective 8/21/09. Statutory Authority: RCW 15.86.060 and 15.86.070. WSR 06-23-108, § 16-157-020, filed 11/17/06, effective 12/18/06. Statutory Authority: Chapters 15.86 and 34.05 RCW. WSR 04-24-015, § 16-157-020, filed 11/22/04, effective 12/23/04. Statutory Authority: Chapter 15.86 RCW. WSR 03-03-044, § 16-157-020, filed 1/10/03, effective 2/10/03; WSR 02-10-090, § 16-157-020, filed 4/29/02, effective 5/30/02.]

WSR 22-10-106
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 4, 2022, 11:12 a.m.]

Title of Rule and Other Identifying Information: Hearing loss updates. WAC 296-27-01113 Recording criteria for occupational hearing loss cases, and 296-817-30015 Use these equations when estimating full-day noise exposure from sound level measurements.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to align WAC 296-27-01113 with the language in Occupational Safety and Health Administration's (OSHA) rule in 29 C.F.R. 1904.10, Recording criteria for cases involving occupational hearing loss, which was updated in 2003. The OSHA rule requires recording hearing loss discovered under an employer's hearing conservation program. OSHA also requires employers to record every standard threshold shift (STS) identified with thresholds above the 25 dB average.

Also being proposed in this rule making is updating the images of equations in WAC 296-817-30015, which are blurry and not useful for readers. No requirements are being updated in this rule making. Please see below for a list of proposed changes.

Amending WAC 296-27-01113 Recording criteria for occupational hearing loss cases.

- Update "recordable threshold shift (RTS)" in subsection (1) to "work-related standard threshold shift (STS).["]
- Add new sentence to end of subsection (1) that states "Audiometric testing is required by chapter 296-817 WAC, Hearing loss prevention (noise)."
- Remove original language from subsection (2), as well as the note below the subsection, and add new language that states "Minimum recordable hearing thresholds. It is not required to record an STS when the average threshold level for the employee's current audiogram at 2000 Hz, 3000 Hz, and 4000 Hz average less than 25 dB. No age adjustment is allowed for this determination."
- Update "To determine whether RTS has occurred" at the beginning of subsection (3) to "Age related hearing loss."
- Update the language in subsection (3) which allows employers to use age adjustment tables during reviews of STSs. The previous rule language required additional hearing loss record reviews to use age adjustment.
- Update multiple uses of "RTS" in subsection (4) to "STS."
- Add "Work-relatedness" to the beginning of subsection (5).
- Add subsection (5)(a) before the first sentence of subsection (5).
- Add subsection (6)(b) in place of subsection (6) and add new reference about following the rules set out in WAC 296-27-01103 Determination of work-relatedness.

Reasons Supporting Proposal: The reasons supporting the proposal of updating the current hearing loss rules is to ensure the department of labor and industries (L&I) is at-least-as-effective-as OSHA.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, and 49.17.050.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. 1904.10.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: No requirements are being changed during this rule making, only updating language in WAC 296-27-01113 to be at-least-as-effective-as OSHA's language in 29 C.F.R. 1904.10, Recording criteria for cases involving occupational hearing loss, and correcting images in WAC 296-817-30015 so they are easily read, which fits the parameters of RCW 34.05.353(4).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tari Enos, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5516, fax 360-902-5619, email Tari.Enos@Lni.wa.gov, AND RECEIVED BY 5:00 p.m. on July 5, 2022.

May 4, 2022
Joel Sacks
Director

OTS-3502.1

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01113 Recording criteria for occupational hearing loss cases. (1) The employer must record a hearing loss case on the OSHA 300 Log (~~(by checking)~~) and check the column for hearing loss if an employee's hearing test (audiogram) reveals that a (~~(recordable)~~) work-related standard threshold shift (~~((RTS))~~) (STS) has occurred in

one or both ears (~~has occurred~~). Audiometric testing is required by chapter 296-817 WAC, Hearing loss prevention (noise).

~~(2) ((The employer must evaluate the employee's current audiogram with their baseline audiogram to determine whether a RTS has occurred. If the employee has previously experienced a recorded hearing loss, you must compare the employee's current audiogram with the audiogram reflecting the employee's previously recorded hearing loss case.~~

Note: Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

~~(3) To determine whether RTS has occurred,))~~ Minimum recordable hearing thresholds. It is not required to record an STS when the average threshold level for the employee's current audiogram at 2000 Hz, 3000 Hz, and 4000 Hz average less than 25 dB. No age adjustment is allowed for this determination.

(3) Age related hearing loss. The employer may age adjust the employee's current audiogram results by using Tables A-1 or A-2 in Appendix A of this chapter ((. The employer may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero)) to determine if it must be recorded (evaluations from WAC 296-817-20035(3) are still required). Compare the age-adjusted audiogram to the employee's original baseline audiogram or the last audiogram that resulted in a recordable STS (do not age adjust the baseline or previously recorded audiogram). If the average threshold shift at 2000, 3000, and 4000 Hz from the original baseline or previously recorded audiogram to the current age adjusted audiogram is less than 10 dB, the hearing loss case is not required to be recorded.

(4) The employer is not required to record the hearing loss case on the OSHA 300 Log if they retest the employee's hearing within thirty days of the first test, and the retest does not confirm the ((RTS)) STS. If the retest confirms the ((RTS)) STS, the employer must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing indicates that an ((RTS)) STS is not persistent, the employer may erase or line-out the recorded entry.

(5) Work-relatedness.

(a) The employer must consider the case to be work-related if an event or exposure in the work environment either caused or contributed to the hearing loss or significantly aggravated a preexisting hearing loss.

~~((6))~~ (b) The employer is not required to consider the case work-related or recordable if a physician or other licensed health care professional determines, following the rules set out in WAC 296-27-01103 Determination of work-relatedness, that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 19-17-068, § 296-27-01113, filed 8/20/19, effective 1/1/20; WSR 15-11-066, § 296-27-01113, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01113, filed 1/24/07, effective 4/1/07; WSR 03-24-085, § 296-27-01113, filed 12/2/03, effective 1/1/04; WSR 02-22-029, § 296-27-01113, filed 10/28/02, effective 1/1/03. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01113, filed 12/14/01, effective 1/1/02.]

OTS-3503.1

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-817-30015 Use these equations when estimating full-day noise exposure from sound level measurements. You must compute employee's full-day noise exposure by using the appropriate equations from Table 2 "Noise Dose Computation" **when** using a sound level meter to estimate noise dose.

**Table 2
Noise Dose Computation**

((Description	Equation
Compute the noise dose based on several time periods of constant noise during the shift	The total noise dose over the work day, as a percentage, is given by the following equation where C_n indicates the total time of exposure at a specific noise level, and T_n indicates the reference duration for that level. $D = 100 \times \left(\frac{C_1}{T_1} + \frac{C_2}{T_2} + \frac{C_3}{T_3} + \dots + \frac{C_n}{T_n} \right)$
The reference duration is equal to the time of exposure to continuous noise at a specific sound level that will result in a one hundred percent dose	The reference duration, T, for sound level, L, is given in hours by the equation: $T = \frac{8}{2^{((L-90)/5)}}$
Given a noise dose as a percentage, compute the equivalent eight-hour time weighted average noise level	The equivalent eight-hour time weighted average, TWA_8 , is computed from the dose, D, by the equation: $TWA_8 = 16.61 \times \log_{10} \left(\frac{D}{100} \right) + 90$)

Description	Equation
<u>Compute the noise dose based on several time periods of constant noise during the shift.</u>	The total noise dose over the work day, as a percentage, is given by the following equation where C_n indicates the total time of exposure at a specific noise level, and T_n indicates the reference duration for that level. $D = 100 * ((C_1/T_1) + (C_2/T_2) + (C_3/T_3) + ... + (C_n/T_n))$
<u>The reference duration is equal to the amount of time of exposure to continuous noise at a specific sound level that will result in a one hundred percent dose.</u>	The reference duration, T, for sound level, L, is given in hours by the equation: $T = 8 / (2^{((L - 90) / 5)})$
<u>Given a noise dose as a percentage, compute the equivalent eight hour time weighted average noise level.</u>	The equivalent eight-hour time weighted average, TWA_8 , is computed from the dose, D, by the equation: $TWA_8 = 16.61 * \text{Log}_{10}(D/100) + 90$

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050. WSR 15-23-086, § 296-817-30015, filed 11/17/15, effective 12/18/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 03-11-060, § 296-817-30015, filed 5/19/03, effective 8/1/03.]