

**WSR 22-08-038  
PROPOSED RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed March 30, 2022, 10:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-116.

Title of Rule and Other Identifying Information: WAC 314-55-108 Pesticide action levels. The Washington state liquor and cannabis board (WSLCB) proposes amendments to WAC 314-55-108 to update information related to pesticide action level testing of cannabis products.

Hearing Location(s): On May 11, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may log in using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. For more information about board meetings, please visit [https://lcb.wa.gov/Boardmeetings/Board\\_meetings](https://lcb.wa.gov/Boardmeetings/Board_meetings).

Date of Intended Adoption: Not earlier than May 25, 2022.

Submit Written Comments to: Jeff Kildahl, 1025 Union Avenue S.E., Olympia, WA 98501, email [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov), fax 360-664-9689, by May 11, 2022.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email [anita.bingham@lcb.wa.gov](mailto:anita.bingham@lcb.wa.gov), by May 4, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule amendments is to update technical chemical isomer information contained in WAC 314-55-108 for some types of pesticides included in cannabis quality control testing, and to clarify the number of significant digits testing laboratories [that] are expected to use for reporting numerical pesticide testing results.

Rule amendments are also needed to ensure consistency with WAC 314-55-102 concerning remediation of marijuana products that have failed quality control testing, remove redundant rule language contained both in the existing subsections (4) and (5), and to update the term "quality assurance testing" to "quality control testing."

Reasons Supporting Proposal: The proposed rule updates will help to protect public health and safety by keeping marijuana pesticide action level information and marijuana remediation guidelines current and up-to-date. These changes are needed to ensure consistency with the amendments to marijuana quality control testing rules in WAC 314-44-101, 314-55-102, and 314-55-1025 that were permanently adopted as WSR 22-06-097 on March 2, 2022.

Statutory Authority for Adoption: RCW 69.50.345 and 69.50.348.

Statute Being Implemented: RCW 69.50.345 and 69.50.348.

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

Name of Proponent: WSLCB, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Kildahl, Policy and Rules Coordinator, 1025 Union Avenue S.E., Olympia, WA 98501, 360-664-1781; Implementation: Kendra Hodgson, Marijuana Examiners Unit Manager, 1025 Union Avenue S.E., Olympia, WA 98501, 360-664-4555; and Enforcement: Chandra Brady, Director of Enforcement and Education, 1025 Union Avenue S.E., Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5) (c).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.82.025(4).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the agency considered potential administrative costs that a licensee may incur complying with the proposed rules.

WSLCB applied the North American Industry Classification System (NAICS) codes 453998 for marijuana stores, both medicinal and recreational, 424590 for marijuana processors, 111998 for outdoor marijuana growers, and 111419 for indoor marijuana growers. The industry descriptions for each of these codes is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

WSLCB applied a default cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects four hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would include activities such as completing and submitting forms to WSLCB and phone calls.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
424590	\$200	Marijuana, merchant wholesalers	Other Farm Product Raw Material Merchant Wholesalers	\$6,733.79	\$3,684.24 2018 Dataset pulled from USBLS	\$6,733.79 2018 Dataset pulled from DOR
111998	\$200	Marijuana, grown in an open field	All Other Miscellaneous Crop Farming	\$9,125.33	\$9,125.33 2018 Dataset pulled from ESD	\$2,834.77 2018 Dataset pulled from DOR
111419	\$200	Marijuana, grown under cover	Other Food Crops Grown Under Cover	\$2,349.42	\$2,349.42 2018 Dataset pulled from ESD	\$2,324.68 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, im-

plementation of these rules are not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

March 30, 2022  
David Postman  
Chair

**OTS-3688.2**

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

**WAC 314-55-108 Pesticide action levels.** (1) Only pesticides allowed under WAC 314-55-084 may be used in the production of marijuana, and they must be registered by the Washington state department of agriculture (WSDA) under chapter 15.58 RCW.

(2) Pursuant to WAC 314-55-102, if the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed under subsection (1) of this section and is above the action levels provided in subsection (3) of this section, that lot or batch from which the sample was deducted has failed quality ((assurance)) control testing and may be subject to a recall as provided in WAC 314-55-225.

(3) The action levels for pesticides are provided in the table below. The action level for all other pesticides that are not listed in the table below or not allowed under subsection (1) of this section is 0.1 ppm.

((Analyte	Chemical Abstract Services (CAS) Registry Number	Action-Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Aeequinoeyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	†
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	†
Cypermethrin	52315-07-8	†

(Analyte	Chemical Abstract Services (CAS) Registry Number	Action Level ppm
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	121-75-5	0.2
Metaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myelobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins <sup>a</sup>	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide <sup>b</sup>	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins <sup>bc</sup>	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

<sup>a</sup>Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8 respectively).

<sup>b</sup>Action level applies to marijuana concentrates, marijuana extracts, intermediate products, and imported cannabinoids.

<sup>c</sup>Pyrethrins should be measured as the cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 (CAS numbers 121-21-1, 25402-06-6, and 4466-1-2 respectively.)

<u>Analyte</u>	<u>µg/g (ppm)</u>	<u>CAS#</u>
<u>Abamectin (Sum of Isomers)</u>	<u>0.50</u>	<u>71751-41-2</u>
• <u>Avermectin B1a</u>		<u>65195-55-3</u>
• <u>Avermectin B1b</u>		<u>65195-56-4</u>
<u>Acephate</u>	<u>0.40</u>	<u>30560-19-1</u>
<u>Acequinocyl</u>	<u>2.0</u>	<u>57960-19-7</u>
<u>Acetamiprid</u>	<u>0.20</u>	<u>135410-20-7</u>
<u>Aldicarb</u>	<u>0.40</u>	<u>116-06-3</u>
<u>Azoxystrobin</u>	<u>0.20</u>	<u>131860-33-8</u>
<u>Bifenazate</u>	<u>0.20</u>	<u>149877-41-8</u>
<u>Bifenthrin</u>	<u>0.20</u>	<u>82657-04-3</u>
<u>Boscalid</u>	<u>0.40</u>	<u>188425-85-6</u>
<u>Carbaryl</u>	<u>0.20</u>	<u>63-25-2</u>
<u>Carbofuran</u>	<u>0.20</u>	<u>1563-66-2</u>
<u>Chlorantraniliprole</u>	<u>0.20</u>	<u>500008-45-7</u>
<u>Chlorfenapyr</u>	<u>1.0</u>	<u>122453-73-0</u>
<u>Chlorpyrifos</u>	<u>0.20</u>	<u>2921-88-2</u>
<u>Clofentezine</u>	<u>0.20</u>	<u>74115-24-5</u>
<u>Cyfluthrin</u>	<u>1.0</u>	<u>68359-37-5</u>
<u>Cypermethrin</u>	<u>1.0</u>	<u>52315-07-8</u>
<u>Daminozide</u>	<u>1.0</u>	<u>1596-84-5</u>
<u>DDVP (Dichlorvos)</u>	<u>0.10</u>	<u>62-73-7</u>
<u>Diazinon</u>	<u>0.20</u>	<u>333-41-5</u>
<u>Dimethoate</u>	<u>0.20</u>	<u>60-51-5</u>
<u>Ethoprophos</u>	<u>0.20</u>	<u>13194-48-4</u>
<u>Etofenprox</u>	<u>0.40</u>	<u>80844-07-1</u>
<u>Etoxazole</u>	<u>0.20</u>	<u>153233-91-1</u>
<u>Fenoxycarb</u>	<u>0.20</u>	<u>72490-01-8</u>
<u>Fenpyroximate</u>	<u>0.40</u>	<u>134098-61-6</u>
<u>Fipronil</u>	<u>0.40</u>	<u>120068-37-3</u>
<u>Flonicamid</u>	<u>1.0</u>	<u>158062-67-0</u>
<u>Fludioxonil</u>	<u>0.40</u>	<u>131341-86-1</u>
<u>Hexythiazox</u>	<u>1.0</u>	<u>78587-05-0</u>
<u>Imazalil</u>	<u>0.20</u>	<u>35554-44-0</u>
<u>Imidacloprid</u>	<u>0.40</u>	<u>138261-41-3</u>
<u>Kresoxim-methyl</u>	<u>0.40</u>	<u>143390-89-0</u>
<u>Malathion</u>	<u>0.20</u>	<u>121-75-5</u>
<u>Metalaxyl</u>	<u>0.20</u>	<u>57837-19-1</u>
<u>Methiocarb</u>	<u>0.20</u>	<u>2032-65-7</u>
<u>Methomyl</u>	<u>0.40</u>	<u>16752-77-5</u>
<u>Methyl parathion</u>	<u>0.20</u>	<u>298-00-0</u>

<u>Analyte</u>	<u>µg/g (ppm)</u>	<u>CAS#</u>
<u>MGK-264</u>	<u>0.20</u>	<u>113-48-4</u>
<u>Myclobutanil</u>	<u>0.20</u>	<u>88671-89-0</u>
<u>Naled</u>	<u>0.50</u>	<u>300-76-5</u>
<u>Oxamyl</u>	<u>1.0</u>	<u>23135-22-0</u>
<u>Paclobutrazol</u>	<u>0.40</u>	<u>76738-62-0</u>
<u>Permethrins (Sum of Isomers)</u>	<u>0.20</u>	<u>52645-53-1</u>
• <u>cis-Permethrin</u>		<u>54774-45-7</u>
• <u>trans-Permethrin</u>		<u>51877-74-8</u>
<u>Phosmet</u>	<u>0.20</u>	<u>732-11-6</u>
<u>Piperonyl butoxide</u>	<u>2.0</u>	<u>51-03-6</u>
<u>Prallethrin</u>	<u>0.20</u>	<u>23031-36-9</u>
<u>Propiconazole</u>	<u>0.40</u>	<u>60207-90-1</u>
<u>Propoxur</u>	<u>0.20</u>	<u>114-26-1</u>
<u>Pyrethrins (Sum of Isomers)</u>	<u>1.0</u>	<u>8003-34-7</u>
• <u>Pyrethrin I</u>		<u>121-21-1</u>
• <u>Pyrethrin II</u>		<u>121-29-9</u>
<u>Pyridaben</u>	<u>0.20</u>	<u>96489-71-3</u>
<u>Spinosad (Sum of Isomers)</u>	<u>0.20</u>	<u>168316-95-8</u>
• <u>Spinosyn A</u>		<u>131929-60-7</u>
• <u>Spinosyn D</u>		<u>131929-63-0</u>
<u>Spiromesifen</u>	<u>0.20</u>	<u>283594-90-1</u>
<u>Spirotetramat</u>	<u>0.20</u>	<u>203313-25-1</u>
<u>Spiroxamine</u>	<u>0.40</u>	<u>118134-30-8</u>
<u>Tebuconazole</u>	<u>0.40</u>	<u>80443-41-0</u>
<u>Thiacloprid</u>	<u>0.20</u>	<u>111988-49-9</u>
<u>Thiamethoxam</u>	<u>0.20</u>	<u>153719-23-4</u>
<u>Trifloxystrobin</u>	<u>0.20</u>	<u>141517-21-7</u>

(4) 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.

(5) Except as otherwise provided in this section, licensed marijuana producer or processor that provided a sample that fails quality ((assurance)) control testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087. A licensee's sample that does not test above the pesticide action levels under this section where test results show the presence of a pesticide that is not allowed under subsection (1) of this section may still be subject to an administrative violation if the disallowed pesticide was applied.

~~((5) Except as otherwise provided in this section, a licensed marijuana producer or processor which provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal re-~~

~~quirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and record-keeping requirements in WAC 314-55-087.)~~

(6) Pursuant to WAC 314-55-102, 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.

~~(7) ((Producers and processors may remediate failed harvests, lots, or batches so long as the remediation method does not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product. Remediation solvents or methods used on the marijuana product must be disclosed to a licensed retailer or consumer upon request. The entire harvest, lot, or batch the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated harvest, lots or batches may be sold or transported until the completion and successful passage of quality assurance testing as required in this section and WAC 314-55-102.~~

~~(8))~~ Pursuant to WAC 314-55-102, upon request a marijuana licensee must disclose and make available all quality ((assurance)) control tests and retest results for the lot or batch of usable marijuana, marijuana concentrates, or marijuana-infused products to the marijuana licensee or retail customer who is considering purchasing the usable marijuana, marijuana concentrates, or marijuana-infused products.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-108, filed 5/31/17, effective 8/31/17.]