

An Environmental Justice Assessment

of the Establishment of Chapter 16-310 WAC,

Accreditation of Cannabis Laboratories

Cannabis Program

Washington State Department of Agriculture

Olympia, WA

April 2024

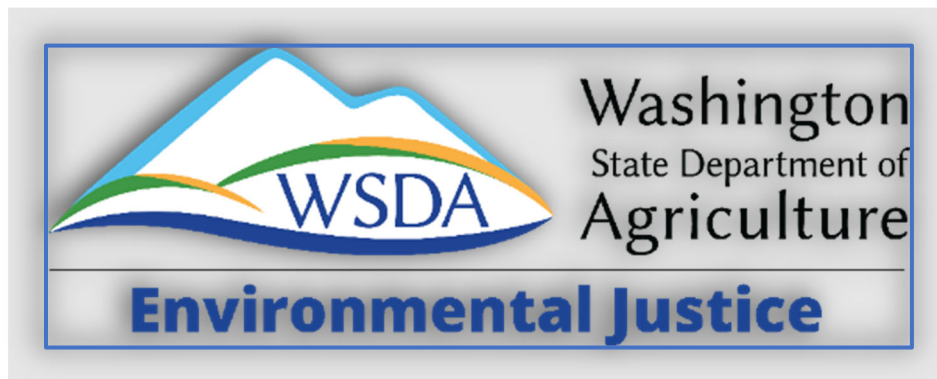


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Executive Summary

The Washington State Department of Agriculture (Department) is proposing to establish a new chapter in the Washington Administrative Code for the accreditation of cannabis laboratories in accordance with the standards set forth in chapter 16-309 WAC. The purpose of this rule is to ensure that laboratory standards described in chapter 16-309 WAC are followed when testing cannabis and cannabis products in Washington State.

Effective July 1, 2024, the Department becomes statutorily responsible for establishing and maintaining these laboratory accreditation requirements for laboratories testing cannabis and cannabis products.

Program Background Information

Under 2019 House Bill 2052, the Washington State Department of Ecology was to take over the accreditation of cannabis laboratories and began creating a fee-based program to audit and accredit the laboratories. While in the process of developing cannabis laboratory standards, the Department identified an opportunity to save costs to laboratories and streamline the hiring and work process related to laboratory standards and accreditation by incorporating the work of laboratory audits and accreditation. The Department submitted agency-request legislation replacing the Department of Ecology with the Department as the accrediting agency and requested continuous funding as well as expedited rule-making authority to complete this work. The bill, Second Substitute House Bill (SSHB) 2151, passed in 2024 and was signed by the governor. The bill authorized the creation of a new rule chapter to implement auditing and accrediting laboratories through the Department's Cannabis Lab Accreditation Standards Program. The legislation request, as rewritten by the Department, modified the Department of Ecology's original language which detailed the allowance of fees to 'fully support' its program. The Department's significant revision indicated a source of funds for its staff which, as a result, significantly reduces the fees necessary for the program. Further, laboratories will no longer be accredited by a third-party consultant and will instead be audited and accredited by a team at the Department.

Purpose of the Environmental Justice Assessment

The Environmental Justice Assessment (EJA) process helps assess the environmental justice impacts of Significant Agency Actions (SAAs). The assessment informs and supports consideration of overburdened communities and vulnerable populations when making decisions. This information assists with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of health disparities.

The EJA process aligns with Washington State's Environmental Justice law called the Healthy Environment for All (HEAL) Act and is to be completed for the following actions:

- The development and adoption of significant legislative rules as defined in RCW 34.05.328

- The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out
- A capital project, grant, or loan award of at least \$12,000,000 or a transportation project, grant, or loan of at least \$15,000,000
- The submission of agency request legislation to the office of the governor or the office of financial management for approval

This assessment does not require a comprehensive or an exhaustive examination of all potential impacts of this proposed significant agency action and does not require novel quantitative or an economic analysis. The time and resource investment, and depth of assessment, will be influenced by the reasonable applicability of the questions to the agency action.

Section 1: Background

Title of Project/Action: Cannabis Lab Accreditation

Date EJA Initiated: April 2024

WSDA Program: Cannabis Program

Points of Contact for the Environmental Justice Analysis:

- [Jill Wisheart, Environmental Justice Coordinator](#)
- [Christopher Nivinskus, Regulatory Impact Analyst](#)
- [Trecia Ehrlich, Cannabis Programs Manager](#)

Significant Agency Action Type:

- Rulemaking

Section 2: Notification of Environmental Justice Assessment Initiation

- OFM submission link: [Accreditation of Cannabis Laboratories](#)
- WSDA link: [Environmental Justice | Washington State Department of Agriculture](#)

Section 3: Identification of Affected Tribes

The proposed rule is statewide in nature and only affects businesses, specifically laboratories that test cannabis and cannabis products. Medicine Creek Analytics, one of the cannabis and cannabis product testing laboratories operating in Washington state, is under the Puyallup Tribe's economic portfolio and ownership.

Section 4: Summary of Tribal Consultation & Engagement

Due to Medicine Creek Analytics being owned by the Puyallup Tribe, the Department, in alignment with its statutory obligations, sought input from the Puyallup Tribe regarding how this rulemaking may affect them at either the enterprise or individual level. To effectuate this collaboration, the

Department utilized its main contact, Medicine Creek Analytics' *Scientific Director*, to assist in the obtainment of this information. Medicine Creek Analytics' *Scientific Director* related, in essence, the following: After reviewing the rule's language and effects, the Puyallup Tribe did not regard any environmental [justice] impacts resulting from the implementation of this rule.

Section 5: Identification of Overburdened Communities & Vulnerable Populations

The proposed rule is statewide in nature and only affects businesses, specifically laboratories that test cannabis and cannabis products. As such, there are no impacted overburdened communities or vulnerable populations that can be identified.

Section 6: Summary of Community Engagement

Targeted community engagement is not required as there are no identified overburdened communities, vulnerable populations, or Tribes impacted by this proposed significant agency action. Thus, no members of these groups could be engaged with to solicit input on this proposed rule.

Section 7: Potential Environmental Benefits & Harms from Action

Environmental benefits, as defined in RCW 70A.02.010(4), are activities designed to 1) prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts, 2) prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm, or 3) meet a community need formally identified to a covered agency by an overburdened community or vulnerable population.

The underlying significant agency action of transferring the Department of Ecology's cannabis lab accreditation responsibilities to the Department of Agriculture does not inherently provide any environmental benefits or prevent existing environmental harms as defined in chapter 70A.02 RCW, particularly to members of vulnerable populations living in overburdened communities. Additionally, the proposed rule does not possess any trackable environmental benefits in which the Department could ensure the equitable distribution towards overburdened communities, vulnerable populations, and Tribes throughout Washington State.

The Department, however, identified environmental benefits through secondary and tertiary analysis. With the Department's new cannabis lab accreditation oversight responsibilities, Washington State now has added assurances that these cannabis laboratories will be set up and conduct product testing in such a way that will provide the most accurate cannabis and cannabis product testing results in alignment with widely accepted and reputable scientific standards. If not for the Department adopting and requiring these laboratory scientific standards as specified in chapter 16-309 WAC, as well as now possessing the authority to accredit laboratories adhering to those standards, Washington State—and more specifically its cannabis and cannabis product consumers—would otherwise be subject to potentially illegitimate testing results which would create a risk to public health.

Section 8: Options to Eliminate, Reduce, or Mitigate Harms and Equitably Distribute Benefits

As the underlying significant agency action of transferring cannabis lab accreditation responsibilities to the Department does not inherently provide environmental benefits or prevent existing harms, the Department determined that there are no available options to further eliminate, reduce, or mitigate harms and equitably distribute environmental benefits.