



CR 102 Memorandum

Regarding amendments to WAC 314-55-096 related to vendor, educational, and internal quality samples

Date: August 14, 2024

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Background

On August 24, 2022, the Washington State Liquor and Cannabis Board (LCB or Board) accepted a petition for rulemaking submitted by Vicki Christopherson, on behalf of the Washington Association of Cannabis Businesses (WACA) on July 8, 2022, requesting the Board consider rulemaking to amend WAC 314-55-096 regarding vendor, educational, and internal quality samples (cannabis samples) to streamline the existing framework. The Board has authority adopt a regulatory framework for licensees to conduct sampling activities for business purposes under RCW 69.50.342.

The rulemaking was initiated on March 1, 2023, and the CR-101 was filed as [WSR 23-06-079](#). If the CR-102 is approved by the Board, the public hearing will be held on September 25, 2024. If a supplemental CR-102 is not required, the CR-103 may be filed on October 9, 2024, meaning the rules would become effective on November 9, 2024.

The proposal was formulated in coordination and collaboration with representatives from LCB's Enforcement and Education Division, Licensing and Regulation Division, and Finance Division. The initial meeting with Division representatives was held on February 9, 2023.

This rulemaking aims to update WAC 314-55-096 to enhance efficiency, reduce costs, and improve safety and transparency in the handling of cannabis samples.

Informal Written Comments

During the informal public comment period from March 1, 2023, to April 14, 2023, 12 written comments were received during the informal comment period and highlighted critical areas for improvement, such as the elimination of vendor samples, relaxation of quality control sample restrictions, and the need for larger sample sizes. The informal comment period matrix with full text of the submissions is attached.

Public Engagement

Extensive stakeholder engagement has been a cornerstone of this rulemaking process, ensuring that the proposed changes are well-informed and reflective of the industry's needs:



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1. **In-Person Discussions (March 9, 2023):** Direct engagement with industry members provided valuable insights into the practical challenges of the current sampling framework, reinforcing themes identified in written comments.
2. **Stakeholder Surveys (July 2023):** Targeted surveys for each license types (producer, processor, retailer) gathered specific data on sampling preferences and practical challenges, which guided the drafting of the new framework.
3. **Collaborative Rulemaking Discussions (October 6 and 11, 2023):** These sessions proposed the concept of "Trade Samples," a unified category streamlining vendor and educational samples. Feedback from these discussions significantly shared the proposed rule.

Reason Rulemaking is Needed

Rulemaking is needed to update the sampling framework to reflect current industry practices and reduce regulatory burdens while ensuring accountability and public safety. The proposed rule aims to align the sampling regulations more closely with industry realities and operational needs.

Description of Rule Changes

This proposal aims to amend the regulations regarding vendor, educational, and internal quality samples in WAC 314-55-096 to streamline requirements, reduce the regulatory burden on licensees, and ensure accountability and public safety. These changes are designed to address stakeholder feedback effectively and are expected to improve efficiency in cannabis sampling processes while maintaining high standards for public safety and product quality.

1. **Unified Sample Category - 'Trade Samples':** This category merges vendor and educational samples to reduce regulatory complexity and better align with industry practices.
2. **Representative Sample Sizes:** Ensures that trade samples reflect the smallest marketable product size to accurately represent consumer products, aiding in more informed business decisions.
3. **Quarterly Provision Limits:** Transitioning to quarterly limits accommodates the operational cycles of producers, particularly those with seasonal outdoor production schedules.
4. **Equivalency Standards for Different Product Types:** Standard limits across various product types ensure fair and consistent sampling practices.
5. **Traceability and Recordkeeping:** All trade samples must be documented in the state's traceability system, including detailed records of product type, trade name, and the receiving licensee. This ensures transparency and facilitates compliance monitoring.
6. **Designated Storage Areas:** Trade samples must be stored in designated areas separate from non-sample inventory. This separation is crucial for preventing contamination and ensuring samples are easily identifiable for audit and compliance checks.



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7. **Employee Sampling:** Employees of licensees can receive up to 15 trade sample units per calendar quarter. These samples must be used strictly for educational purposes and are not to be used as compensation or incentives.
8. **Limits on Sample Distribution:** Producers can distribute up to 96 trade sample units of cannabis per calendar quarter to processors, allowing comprehensive product assessment. Processors may provide up to 120 trade sample units of various cannabis products to retailers per quarter, facilitating extensive staff training and product familiarization.
9. **Sample Jar Modifications:** Changes include requirements for sample jars to be transparent, allowing customers to view and smell the product. This modification enhances consumer interaction with the product without compromising safety. The proposal also changes requirements for handling useable cannabis when it is no longer needed on display in the sample jar. The rule proposes two additional options for retailers: (1) to give the useable cannabis to current employees, which will count towards the employee's allotment; and (2) to dispose the cannabis in accordance with the requirements in WAC 314-55-097. These options are in addition to retailers transferring the cannabis back to the originating processor who provided it, as outlined in the existing rule.

Impact of Stakeholder Feedback on Proposed Rules

Each proposed amendment reflects direct responses to the challenges and suggestions raised by stakeholders, as follows:

1. **Flexibility in Sample Sizes:** Adjustments to sample sizes responds directly to feedback that current limits do not adequately allow for adequate product evaluation;
2. **Simplification of Compliance Requirements:** By consolidating sample categories and aligning sample sizes with market-available products, the proposed rule simplifies compliance, a change strongly supported by small retailers and large producers alike; and
3. **Adaptation to Business Needs:** The shift to quarterly limits and the ability to use representative samples are intended to support both large-scale operators and small craft producers, ensuring that all business models can benefit from more practical and less burdensome regulations.

Anticipated Effects

The proposed changes are designed to offer multiple benefits, including, but not limited to:

1. Reduced the regulatory burden by simplifying compliance with standardized sample sizes and reduced administrative burden and overhead costs;
2. Enhanced understanding and education of budtenders regarding cannabis products; and
3. More practical and efficient sampling processes that reflect operational realities of the cannabis industry.