CR 101 Public Feedback Table – Implementation of 2SHB 2151 Transfer of Laboratory Accreditation
Public feedback received July 17, 2024 through August 16, 2024 on Implementation of 2SHB 2151 presented as CR 101 on July 17, 2024, filed as WSR 24-15-067. As noted in Notice to Stakeholders, public comment open until August 16, 2024.

Name	Feedback	Response
Email received 8/16/24 Nick Mosely, M.S. Chief Executive Officer Confidence Analytics nick@conflabs.com	Hello, Please find attached my comments pertaining to WSR 24-15-067. I would appreciate the acknowledgement of receipt of this email. Kind regards, (see attachment)	8/16/24 Email response: Nick: Thank you for providing your comments on the CR 101 (Preproposal Statement of Inquiry) on rulemaking to implement 2SHB 2151 related to the transfer of authority for cannabis testing laboratory standards and accreditation to the Washington State Dept. of Agriculture. We look forward to reviewing your comments. If we have any questions we will follow up by email. Best regards. Denise

CONFIDENCE ANALYTICS®
CANNABIS. CERTIFIED.®

14797 NE 95th St
Redmond, WA 98052

+1-206-743-8843
info@conflabs.com

2024-08-16

To: Rules Coordinator
Liquor and Cannabis Board
P.O. Box 43080
Olympia, WA 98504-3080

Via email: rules@lcb.wa.gov

Re: CR 101 filed as WSR 24-15-067 on July 17, 2024

Dear Rules Coordinator,

My name is Nick Mosely. I am a founder and operator of Confidence Analytics, one of Washington state's leading cannabis testing labs. I was a voting member of the Steering Committee for the Cannabis Science Task Force (CSTF). The CSTF was tasked by the legislature via 2019 HB 2052 to produce two reports to the legislature in 2020[1] and 2021[2] regarding the overhaul of cannabis laboratory oversight. Those reports to the legislature resulted in 2022 HB 1859 and 2024 HB 2151 which redefined cannabis laboratory standards.

WSR 24-15-067 concerns the implementation of those bills and the corresponding transfer of authority for cannabis testing laboratory standards and accreditation to the Washington State Department of Agriculture. Pursuant to your request for comments in the CR 101 stage of this rulemaking, I have provided the following "redlines" of the existing text in Chapter WAC 314-55.

In carrying out this rulemaking, it is important for the Liquor and Cannabis Board to consider the recommendations of the CSTF and the intentions of the legislature. The LCB retains authority over important aspects of cannabis product safety and labeling integrity. An integral part of that is sampling. The legislature has communicated their clear intent for a well-regulated cannabis testing regime, and to that end the LCB has a responsibility to craft regulations that uphold scientific rigor in the sampling process and sample chain of custody. The current sampling paradigm described in WAC 314-55-101 is not sufficient for this purpose. Consumers expect, and the legislature instructs, that samples of cannabis products be representative of what consumers purchase and managed by third-parties not directly involved in the supply chain vertical. If the LCB cannot find it within their capacity to act on their authority as granted by RCW 69.50.348 to ensure that representative samples are submitted to third-party laboratories in a manner that is scientifically prudent, then the Department of Agriculture will take over that responsibility via industry-sponsored legislation.

In the spirit of social benefit, I urge that you consider the recommendations herein coming from someone deeply involved in this process.

Kind Regards,
Nick Mosely | Cell: 303-594-1440 | Email: nick@conflabs.com

[1] https://apps.ecology.wa.gov/publications/documents/2003005.pdf
[2] https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Cannabis%20Science%20Task%20Force%20Cannabis%20Lab%20Standards%20Report%20-%20Dec%202021_737cb848-7020-4800-86de-5faed853ad6e.pdf

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) “Accredited laboratory” or “accredited lab” or “testing lab” means a laboratory accredited to perform third-party quality assurance testing on cannabis and cannabis products by the WSDA.

Comment:
Allowing for the term “testing lab” aids in clarity when “certified” and “accredited” are used elsewhere in the sentence. The word “accredited” should be used where possible, as it is a more correct application of language. Labs are accredited by the WSDA to certify products pursuant to LCB product standards.

(2) "Applicant" or "cannabis license applicant" means any person or business entity who is considered by the WSLCB as a true party of interest in a 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.

(3~~2~~) "Batch" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.

[…]

(21~~20~~) "Lot" means either of the following:

(a) The flowers from one or more cannabis plants of the same strain, grown and harvested together in the same area at the same time. A single lot of flowers cannot weigh more than 50~~five~~ pounds; or

(b) The trim, leaves, or other plant matter from one or more cannabis plants. A single lot of trim, leaves, or other plant matter cannot weigh more than 50~~15~~ pounds.

Comment:
Even if of the same strain, cannabis plants grown in different areas or at different times potentially bear different levels of contaminants/ cannabinoids and should be treated as separate lots.

[…]

314-55-073

Cannabis research license.

A cannabis research license allows a holder of the license to produce, process, and possess cannabis for the limited research purposes provided in RCW **69.50.372**.

[…]

(c) Labs accredited~~certified~~ to perform quality assurance testing on cannabis and cannabis products by the WSDA~~WSLCB~~ may apply for a research license. Accredited~~Certified~~ labs with a research license and approved research project must ensure that all cannabis possessed for research purposes is wholly separated from and is not commingled~~comingled~~ with cannabis possessed for state required testing purposes for licensed producers or processors or cannabis possessed for any reason other than research purposes.

[…]

314-55-085

What are the transportation requirements for a cannabis licensee?

(1) **Notification of shipment.** Upon transporting any cannabis or cannabis product, a producer, processor, retailer, or accredited~~certified third-party testing~~ lab shall notify the WSLCB of the type and amount and/or weight of cannabis and/or 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 accredited~~certified third-party~~ lab receiving the product shall report the amount and/or weight of cannabis and/or 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.** Cannabis or cannabis products that are being transported must meet the following requirements:

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

[…]

314-55-097

Cannabis waste disposal—Liquids and solids.

[…]

(4) 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 accredited laboratory. Disposal of the 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) Cannabis plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

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

[…]

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 cannabis and cannabis products in Washington state, and for accredited~~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 accredited~~certified~~ by the WSDA~~WSLCB or their vendor~~ as meeting the Cannabis Laboratory Accreditation Standards set forth in Chapter 16-309~~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 an accredited ~~certified~~ lab may not have direct or indirect financial interest in a licensed cannabis producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in an accredited ~~certified~~ lab must disclose to the WSLCB by affidavit any direct or indirect financial interest in a licensed 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.~~

Comment:
Education requirements for labs are now regulated by the WSDA in Chapter 16-309.

~~(b) Certified labs must follow the analytical requirements most current version of the Cannabis Inflorescence and Leaf Monograph published 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.~~

Comment:
The 2014 AHP is very outdated at this point in time and is superseded by the WSDA's

lab manual and Chapter 16-310.

(3~~e~~) 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.~~

Comment:
The LCB does not have authority to charge fees to labs. The LCB also does not have authority to appoint a vendor to conduct visits of labs without the laboratory's consent or the LCB's presence.

(4) Certified labs must allow the WSLCB or the WSDA~~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.~~

Comment:
GLP and laboratory quality criteria are now outlined in Chapter 16-309 and 16-310.

(5) Laboratories must submit test results for quality control samples pursuant to this chapter in the WSLCB's traceability system.

Comment:
Consider making traceability system usage a requirement of certification. It is mentioned elsewhere in this chapter, but not as a requirement of certification.

(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.

[…]

314-55-101

Quality control sampling.

(1) All licensed cannabis processors, producers, accredited~~certified~~ labs, and accredited~~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 cannabis, useable cannabis, or cannabis-infused products must be submitted to an accredited ~~certified~~ lab for testing consistent with this chapter. The selection of samples shall be conducted by an accredited laboratory.

(a) The accredited laboratory shall develop and implement a sampling standard operating procedure (SOP), approved by the Board, that describes the method for obtaining representative samples of cannabis or cannabis products.

(b) The accredited laboratory shall retain a copy of the sampling SOP and ensure that the sampling SOP is accessible to the sampler during sampling.

Comment:
In deliberations with the Cannabis Science Task Force, as directed by the legislature via 2019 HB 2052, the topic of third-party sampling was discussed frequently. At the time, the task force determined that although the topic of third-party sampling was critical to the success of a well regulated quality control program, it was outside the scope of the task force. This was deemed a "parking lot issue" and LCB representatives on the task force repeatedly assured the group that the issue would be addressed by the LCB in due time. That time has come.

- For reference, see:
  - Appendix E of the 2020 CSTF Report to the Legislature.
  - Page 41 of the 2021 CSTF Report to the Legislature.
  - Evidence for industry support for third-party sampling.

"The use of scientifically recognized sampling principles and procedures helps to ensure that representative samples are provided to the laboratories. This supports the robust testing protocols used in the labs, and results in more accurate and meaningful data."

"States such as Oregon, Colorado, and California could be studied for how they have instituted sampler training and sampler credentials requirements, and provided standardized sampling procedures, to strengthen sampling as an important precursor to cannabis testing activities"

LCB has the authority to regulate the manner and schedule of sampling as outlined in RCW 69.50.348, which specifies that samples should be representative. The Cannabis Science Task Force reported to the legislature that the LCB's current sampling guidelines are not sufficiently representative and LCB spokespeople have concurred there is a gap here that LCB rules should resolve.

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

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

(e~~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 accredited~~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 cannabis, useable cannabis, or cannabis-infused product the sample was collected from.

(f~~d~~) Sampling and analysis requirements apply to all cannabis products regulated by the board.

(g) The accredited laboratory shall develop and implement a Chain of Custody (COC) protocol, approved by the Board, as part of the sampler's annual accreditation, to ensure accurate documentation is recorded for the transport, handling, and storage of samples.

(h) The COC protocol shall require the use of a COC form. The sampler shall use a COC form to record the following information for each sampled batch:

(i) The sampler's name, licensed premises address, and accreditation number, certification number, or license number;

(ii) Date and time sampling started and ended;

(iii) The producer or processor's name, licensed premises address, and license number;

(iv) Batch or lot number of the batch from which the representative sample was obtained and assigned unique sample identifier;

(v) Sample matrix type;

(vi) Total batch size, by weight, or unit count;

(vii) Total weight, or unit count of the representative sample;

(viii) Sampling conditions, to include temperature and humidity, and problems encountered during the sampling process, if any;

(ix) Printed name and signature of the licensed producer or processor employee observing the sampling; and

(x) Printed name and signature of the sampler.

(i) Each time a sample changes custody between licensees or is transported, the date, time, and the names and signatures of persons involved in these activities shall be recorded on the COC form.

(j) Once the custody of the sample changes between licensees, the COC form for that change of custody may not be altered.

Comment:
Robust sampling procedures and chain of custody is essential for the collection and defense of laboratory data. CCRS manifests are not sufficient for this purpose. Furthermore, collection of additional information regarding environmental observations by a third-party at the time of sampling will aid in LCB investigations and encourage compliance, especially when the sampler provides an independent verification of batch/lot size, even if that verification is just visual.

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

(a) The accredited laboratory shall obtain a representative sample from each pre packaged or unpackaged batch of flowers, trim, leaves, or other plant matter, intended for retail sale without extraction, or additives.

(b) 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).

(c) The accredited laboratory shall obtain a representative sample of a cannabis flower lot by collecting, at minimum, the number of sample increments relative to the lot size as listed in the following table. Each sample increment must weigh at least one gram and may consist of multiple pieces.

Comment:
Flower sold as flower is the only type of packaged product that should be allowed to be sampled while in its bulk containers (pre packaging).

Cannabis Flower Lot Size	**Minimum number of sample increments per sample**
up to 10 pounds	8 samples
10 pounds or more but less than 20 pounds	12 samples
20 pounds or more but less than 30 pounds	15 samples

30 pounds or more but less than 40 pounds	18 samples
40 pounds or more but not more than 50 pounds	19 samples

Comment:
A table is easier to read than bullet points for this information.

~~(b) For cannabis flower weighing up to 10 pounds, a minimum of eight samples must be taken.¶~~

~~(c) For cannabis flower weighing 10 pounds or more but less than 20 pounds, a minimum of 12 samples must be taken.¶~~

~~(d) For cannabis flower weighing 20 pounds or more but less than 30 pounds, a minimum of 15 samples must be taken.¶~~

~~(e) For cannabis flower weighing 30 pounds or more but less than 40 pounds, a minimum of 18 samples must be taken.¶~~

~~(f) For cannabis flower weighing 40 pounds or more but not more than 50 pounds, a minimum of 19 samples must be taken.~~

(4) **Additional sampling protocols for batches of cannabis intermediate products:**

(a) The accredited laboratory shall obtain a representative sample from each unpackaged batch of intermediate product intended to be infused into an edible, liquid, or topical by collecting, at minimum, a sample that weighs 0.1% of the intermediate product batch.

Comment:
Intermediate products should require testing only when they are to be infused into edibles, liquids, or topicals. If the intermediate product is intended to be sold for inhalation, then the safety screening should take place after packaging to capture all of the inputs.

(5) **Additional sampling protocols for batches of cannabis end products:**

(a) The accredited laboratory shall obtain a representative sample from each packaged batch intended for retail sale as concentrates, extracts, tinctures, edibles, liquids, or topicals by collecting, at minimum, the number of sample increments relative to the number of packages in the batch as listed in the following table. Each sample increment consists of 1 packaged unit.

Comment:
End products should be samples at the end stage. After packaging. The packaging,

especially vapor devices, can impart contaminants.

Product Batch Size	Minimum number of sample increments per sample
Less than 50 units	2 units
51-150 units	3 units
151-500 units	5 units
501-1,200 units	8 units
1,201-3,200 units	13 units
3,201-10,000 units	20 units
10,001-35,000 units	32 units
More than 35,000 units	50 units

Comment:
Just like flower lots, the size of the sample (number of increments) should scale with the size of the batch. Ideally, each sample is at least 0.1% of the lot/batch, up to a limit.

(5) **Sample retrieval and transportation.** Accredited~~Certified~~ labs may retrieve samples from a cannabis licensee's licensed premises and transport the samples directly to the lab.

(6~~5~~) Accredited~~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.

[…]

314-55-102

Quality assurance and quality control.

(1) **Lab certification and accreditation for quality control testing.** To become accredited~~certified~~, a third-party lab must meet the ~~board's certification and~~ accreditation requirements as described in WAC 16-309~~314-55-0995 and this chapter~~ before conducting quality control tests required under this section.

(a) Accredited~~Certified~~ labs must be accredited~~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) Accredited~~Certified~~ labs may be accredited~~certified~~ for heavy metal testing. Accredited~~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) Accredited~~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 accredited~~certified~~ labs.**

(a) Accredited~~Certified~~ labs must record an acknowledgment of the receipt of samples from producers or processors. Accredited~~Certified~~ labs must also verify if any unused portion of the sample is destroyed after the completion of required testing.

(b) Accredited~~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) Accredited~~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) Accredited~~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 after the product is in its final form and will undergo no further modifications~~ for samples that have not been previously tested~~, and after a remediation as described in this section~~or that have failed quality control testing~~.

(a) **Cannabinoid~~Potency~~ analysis.**

(i) Accredited~~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
Δ9-THC	1.0	1972-08-3
Δ9-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, accredited~~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 aw for useable cannabis;

(ii) Water activity rate of more than 0.85 aw 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 * 104

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 * 103
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 residual solvent screening is required, accredited~~certified~~ labs must test for the solvents listed in the table below at a minimum.

Solvent	**µg/g**	**ppm (simplified)**	**CAS #**

Acetone	5.0 * 103	5000	67-64-1
Benzene	2.0	2	71-43-2
Butanes (Sum of Isomers)	5.0 * 103	5000	
• n-butane			106-97-8
• 2-methylpropane (isobutane)			75-28-5
Cyclohexane	3.9 * 103	3880	110-82-7
Chloroform	2.0	2	67-66-3
Dichloromethane	6.0 * 102	600	75-09-2
Ethanol	5.0 * 103	5000	64-17-5
Ethyl acetate	5.0 * 103	5000	141-78-6
Heptanes (Single Isomer)	5.0 * 103	5000	
• n-heptane			142-82-5
Hexanes (Sum of Isomers)	2.9 * 102	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 * 103	5000	67-63-0
Methanol	3.0 * 103	3000	67-56-1
Pentanes (Sum of Isomers)	5.0 * 103	5000	
• n-pentane			109-66-0
• methylbutane (isopentane)			78-78-4

• dimethylpropane (neopentane)			463-82-1
Propane	5.0 * 103	5000	74-98-6
Toluene	8.9 * 102	890	108-88-3
Xylenes (Sum of Isomers)	2.2 * 103	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
Mercury	0.40

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

(a) **Cannabis flower.** Cannabis flower sold as useable flower requires the following quality control tests:

Product	**Test(s) Required**

Cannabis flower	1. Water activity testing 2. Cannabinoid~~Potency~~ analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening

~~(b) If cannabis flower will be sold as useable flower, no further testing is required.~~

(c) **Intermediate products and end 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) Intermediate products must be tested prior to being infused into solid edibles, liquids, or topicals.

(iii) Products meant for inhalation require testing in finished form, in their final packaging, and do not require testing in their intermediate forms.

Comment:
The only viable rationale for mandatory testing of intermediate products is when those intermediate products will be infused into an edible, liquid, or topical where the other, non-cannabis, ingredients of the edible and topical are not subject to action limits. Inhalable products should be tested in their final form after the formulation of the inhalable product is complete, including additional terpenes, flavors or cutting agents.

(iv) For the purposes of this section, a batch is defined as a single run through the extraction or infusion process;

(v~~iii~~) Cannabis mix must be chopped or ground so no particles are greater than 3 mm; and

(vi~~iv~~) Intermediate products and end products require the following quality assurance tests:

Intermediate/End Product Type	**Tests Required**
Cannabis mix	1. Water activity testing 2. Cannabinoid~~Potency~~ analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening

Cannabis mix infused (loose or rolled) **Comment:** Infused mix is potentially contaminated with both microbiologicals and solvents.	1. Water activity testing 2. Cannabinoid analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Residual solvent screening 7. Pesticide screening
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gassesgases approved by the board of at least 99% purity), CO2, or ethanol.	1. CannabinoidPotency analysis 2. Mycotoxin screening 3. Residual solvent screeningtest 4. Pesticide screening
~~Concentrate or extract made with a CO2 extractor like hash oil~~ **Comment:** This is captured in the previous row of this table.	~~1. Potency analysis¶~~ ~~2. Mycotoxin screening¶~~ ~~3. Residual solvent test¶~~ ~~4. Pesticide screening~~
~~Concentrate or extract made with ethanol~~ **Comment:** This is captured in the previous row of this table.	~~1. Potency analysis¶~~ ~~2. Mycotoxin screening¶~~ ~~3. Residual solvent test¶~~ ~~4. Pesticide screening~~
Concentrate or extract made with approved food grade solvent	1. CannabinoidPotency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Residual solvent screeningtest 5. Pesticide screening
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. CannabinoidPotency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. CannabinoidPotency analysis 2. Microbiological screening

	3. Mycotoxin screening 4. Pesticide screening
Infused solid edible	1. Cannabinoid analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. Cannabinoid analysis
Infused topical	1. Cannabinoid analysis

Comment:
Concentrates can be either end products or intermediate products, depending on if they are intended to be sold for inhalation or infused into an edible, liquid, or topical. If sold as an inhalable product, the safety screening should take place at the end of manufacturing to capture the state of the material as the consumer will receive it, including all of its vaporizable ingredients. This is not advocating for duplicative testing of concentrates; the intermediate form of the concentrate need not be tested unless it is going to be infused into an edible, liquid, or topical. Omitting safety screening from concentrate end products – as is the current status quo – misses the deleterious contributions by flavors, cutting agents, and packaging such as vapor devices.

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and 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¶
Cannabis mix packaged (loose or rolled)¶	¶ 1. Potency analysis¶
Cannabis mix infused (loose or rolled)¶	¶ 1. Potency analysis¶
Concentrate or cannabis-infused product for inhalation¶	1. Potency analysis¶

Comment:

Subsections (d) and (e) are captured in subsection (c).

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

(A) A licensed processor;

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

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

(D) The consumer upon request.

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

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

(7) **Referencing.** Accredited~~Certified~~ labs may reference samples for mycotoxins, heavy metals, and pesticides testing to other accredited~~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) Accredited~~Certified~~ labs are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a accredited~~certified~~ lab must have records proving all cannabis and cannabis-infused products in the accredited~~certified~~ lab's possession are held only for the testing purposes described in this chapter.

(9) A certificate of analysis issued by an accredited~~certified~~ lab for any 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 accredited~~certified~~ lab provide an employee of the board or their designee samples of cannabis or 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 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.

[…]

~~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 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.~~

> **Comment:**
> Proficiency testing requirements are already described in WAC 16-310-110. Laboratories do not need to face double-jeopardy with regard to proficiency testing. RCW 69.50.348 grants the WSDA, not the LCB, authority over proficiency testing as an accreditation function. Remove this entire section.

[…]

~~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:¶~~

~~[TABLE FOLLOWS]~~

> **Comment:**
> GLP and laboratory quality criteria are now outlined in Chapter 16-309 and 16-310. Remove this entire section.

[…]

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 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 or~~,~~ 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 16-310-110~~ 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 16-310-110 ~~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.

[…]

314-55-105

Cannabis product packaging and labeling.

[…]

(9) **Accompanying materials.** Accompanying materials must be provided with a cannabis product or made available to the consumer purchasing 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 cannabis plants and growing medium during production of the useable cannabis or the base 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 cannabis concentrate during or after production.

(10) **Upon request materials.** A consumer may request the certificate of analysis pertaining to the ~~name of the certified lab and~~ quality assurance test results for any cannabis or cannabis product. A retailer must provide the information upon request.

> **Comment:**
> The consumer should have access to the Certificate of Analysis as generated by the testing laboratory to ensure authenticity of the information. Certificates of Analysis are described in WAC 16-310 and WAC 16-309.

[…]

314-55-108

Pesticide action levels.

(1) Only pesticides allowed under WAC 314-55-084 may be used in the production of cannabis, 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 accredited~~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 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	µg/g (ppm)	CAS#
Abamectin (Sum of Isomers)	0.50	71751-41-2
• Avermectin B1a		65195-55-3
• Avermectin B1b		65195-56-4
Acephate	0.40	30560-19-1
Acequinocyl	2.0	57960-19-7
Acetamiprid	0.20	135410-20-7
Aldicarb	0.40	116-06-3
Azoxystrobin	0.20	131860-33-8
Bifenazate	0.20	149877-41-8
Bifenthrin	0.20	82657-04-3
Boscalid	0.40	188425-85-6
Carbaryl	0.20	63-25-2
Carbofuran	0.20	1563-66-2
Chlorantraniliprole	0.20	500008-45-7
Chlorfenapyr	1.0	122453-73-0
Chlorpyrifos	0.20	2921-88-2

Clofentezine	0.20	74115-24-5
Cyfluthrin	1.0	68359-37-5
Cypermethrin	1.0	52315-07-8
Daminozide	1.0	1596-84-5
DDVP (Dichlorvos)	0.10	62-73-7
Diazinon	0.20	333-41-5
Dimethoate	0.20	60-51-5
Ethoprophos	0.20	13194-48-4
Etofenprox	0.40	80844-07-1
Etoxazole	0.20	153233-91-1
Fenoxycarb	0.20	72490-01-8
Fenpyroximate	0.40	134098-61-6
Fipronil	0.40	120068-37-3
Flonicamid	1.0	158062-67-0
Fludioxonil	0.40	131341-86-1
Hexythiazox	1.0	78587-05-0
Imazalil	0.20	35554-44-0
Imidacloprid	0.40	138261-41-3
Kresoxim-methyl	0.40	143390-89-0
Malathion	0.20	121-75-5
Metalaxyl	0.20	57837-19-1
Methiocarb	0.20	2032-65-7
Methomyl	0.40	16752-77-5
Methyl parathion	0.20	298-00-0
MGK-264	0.20	113-48-4

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

Thiamethoxam	0.20	153719-23-4
Trifloxystrobin	0.20	141517-21-7

(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 cannabis producer or processor that provided a sample that fails quality control testing must dispose of the entire lot or batch from which the sample was taken as provided by cannabis 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.

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

[…]

314-55-109

Cannabinoid additives—Requirements, restrictions, and quality assurance testing.

Comment:
This section is already being revised via WSR-24-16-126. Consider removing analyte tables and action limits and instead referencing WAC 314-55-102 where the same analytes and action limits are already listed, but with better clarity.

(1) As provided in RCW 69.50.326 Licensed cannabis producers and licensed 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 cannabis producers and licensed 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 cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a 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 cannabis produced by 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 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 cannabis and 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 cannabis and 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 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 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, accredited~~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, accredited~~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 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 accredited~~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) Accredited~~Certified~~ labs may retrieve samples from a cannabis licensee's licensed premises and transport the sample(s) directly to the lab. Accredited~~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) Accredited~~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 total delta-9 THC = M delta-9 THC + (0.877 x M delta-9 THCA).

(II) 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 x M CBDA).

(C) Regardless of analytical equipment or methodology used for testing, accredited~~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) Accredited~~Certified~~ third-party labs must screen for any pesticides listed in WAC 314-55-108~~ 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~~.

> **Comment:**
> The department of health will soon stop maintaining this list and will instead reference section 108 of this chapter, which is a more robust list.

(B) If the WSLCB, WSDA, other designee of the WSLCB, or accredited~~certified~~ lab identifies a pesticide that is not allowed for use or application on 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) Accredited~~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. Accredited~~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.** Accredited~~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
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)	E. coli (pathogenic strains) and Salmonella spp.
Unprocessed Plant Material	104	Not detected in 1g
Extracted or Processed Botanical Product	103	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. Accredited~~Certified~~ labs must report all test results as required by this section into the state traceability system within 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 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 cannabis products until the completion and successful passage of quality assurance testing as required in this section.

(8) A licensee or accredited~~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.

Attachment C

From: Nick Mosely
To: Laflamme, Denise M (LCB)
Cc: Jacobs, Daniel (LCB); Chemist (LCB)
Subject: Re: Stakeholder Feedback session today: CORRECTED TIME - 10-12
Date: Thursday, February 6, 2025 2:27:25 PM
Attachments: OTS-6025.4 - Confidence Analytics Comments.pdf

External Email

Hi Denise,

Please find attached the written comments from Confidence Analytics.

I am happy to discuss with you if further clarification is needed.

Thank you for involving us in the stakeholder session.

We look forward to continuing to uphold your rules.

Warm regards,

Nick Mosely, M.S.
Chief Executive Officer
Confidence Analytics

On Mon, Feb 3, 2025 at 12:01 PM Nick Mosely <nick@conflabs.com> wrote:

> This is great, thank you!
>
> **Nick Mosely, M.S.**
> ***Chief Executive Officer***
> **Confidence Analytics**
>
> On Mon, Feb 3, 2025 at 11:54 AM Laflamme, Denise M (LCB) <denise.laflamme@lcb.wa.gov> wrote:
>
> > Hi Nick,
> >
> > Thank you for all your comments at our session today. Attached is a Word version of the

current draft rules per your request.

Thanks.

Denise

Denise Laflamme MS, MPH | she/her

Rules Coordinator

Washington State Liquor and Cannabis Board (LCB)

Denise.Laflamme@lcb.wa.gov or Rules: rules@lcb.wa.gov

Mobile: 360-819-0452

Washington State
Liquor and Cannabis Board

From: Nick Mosely <nick@conflabs.com>
Sent: Monday, February 3, 2025 11:24 AM
To: Laflamme, Denise M (LCB) <denise.laflamme@lcb.wa.gov>
Subject: Re: Stakeholder Feedback session today: CORRECTED TIME - 10-12

External Email

Hi Denise,

Thank you for putting on the comment session this morning. I found that to be productive.

I'm writing this email as a reminder that I am interested in getting a word doc version of the draft when you have a chance to send that over.

Thanks,

Nick Mosely, M.S.

Chief Executive Officer

Confidence Analytics

On Mon, Feb 3, 2025 at 8:20 AM Laflamme, Denise M (LCB) <denise.laflamme@lcb.wa.gov> wrote:

> Good morning,
>
> I apologize for the inconvenience, but our stakeholder session this morning begins at 10 (not 9 am as included in the GovDelivery notice).
>
> Thank you.
>
> Denise
>
> Denise Laflamme MS, MPH | she/her
>
> Rules Coordinator
>
> Washington State Liquor and Cannabis Board (LCB)

Denise.Laflamme@lcb.wa.gov or Rules: rules@lcb.wa.gov

Mobile: 360-819-0452

Washington State
Liquor and Cannabis Board

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-0995 Laboratory certification ((~~and accreditation~~)) **requirements.** The following requirements apply to third-party ((~~labs~~)) laboratories seeking certification by the ((~~WSLCB or its designee to do~~)) LCB to conduct quality assurance testing on cannabis and cannabis products in Washington state, and for certified third-party laboratories (certified ((~~labs~~)) laboratories) to remain certified by the ((~~WSLCB~~)) LCB. The requirements provided in this section are continuing requirements, and must be adhered to and maintained for a third-party ((~~lab~~)) laboratory to remain certified. The ((~~WSLCB~~)) LCB may summarily suspend a ((~~lab's~~)) laboratory's certification if a certified ((~~lab~~)) laboratory 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~~)) LCB and meet WSDA accreditation ((~~and other~~)) requirements under chapter 16-310 WAC prior to conducting quality assurance tests required under this chapter.

Certified ((~~labs~~)) laboratories must conspicuously display the certification letter received by the ((~~WSLCB~~)) LCB upon certification at the ((~~lab's~~)) laboratory's premises in a conspicuous location where a customer may observe it unobstructed in plain sight.

(2) Licensed producers or processors may not have a financial interest in a certified laboratory. A person with financial interest in a certified lab may not have direct or indirect financial interest in a licensed 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~~)) laboratory must disclose to the ((~~WSLCB~~)) LCB by affidavit any direct or indirect financial interest in a licensed cannabis producer or processor.

(3) The following provisions are conditions of certification for third-party testing ((~~labs~~)) laboratories. 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~~)) as described in chapter 16-309 WAC.

(b) Certified ((~~labs~~)) laboratories must follow the analytical requirements ((~~most current version of the *Cannabis Inflorescence and Leaf Monograph* published 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~~)) under chapter 16-309 WAC.

(c) Certified laboratories must be accredited by WSDA under chapter 16-310 WAC. Certification is granted on a per parameter basis according to the laboratory’s accreditation status in each parameter as defined in 16-309 WAC.

Comment:

Labs are accredited on a per parameter basis. A lab can be accredited for just potency, for example, and should – in that case – be allowed to conduct testing for potency only. Such a lab would not be permitted to conduct pesticide testing, for example, despite being certified for potency.

(d) A laboratory must provide the following documentation to the LCB when applying for certification:

~~(i) Their most recent audit report issued to them by the WSDA;~~

Comment:
The LCB doesn't need this information outside of their involvement with CLASP. Additionally, there is nothing contemplated in these rules that would cause LCB to take an administrative action on the basis of the contents of the audit report. Proposed subsection 0995 (2)(d)(i) is only requiring that labs provide the audit report, not that the audit report must contain or not contain any information that would qualify or disqualify the lab. So this redundancy of work only has the effect of creating additional and unnecessary exposure for labs. Propose removing 0995 (2)(d)(i) and instead relying on “Proof of current accreditation with the WSDA” from two lines down.

(i~~i~~) The scope of accreditation listing the accredited parameters;

(ii~~i~~) Proof of current accreditation with the WSDA;

(i~~ii~~v) Their contact information including: Email, phone number, and physical and mailing addresses.

(e) LCB will provide a certification letter to laboratories applying for certification when the laboratory meets the criteria listed above ~~to indicate whether certification is approved or denied~~.

Letters that issue certification approval will include approved fields of testing, requirements for maintaining certification, and the date of expiration for certification.

Comment:
This subsection, (3)(e) is about issuance of certification. The criteria for issuing a certification are enumerated in (3)(a-d). All are administrative criteria with the purpose of confirming the lab is accredited by WSDA. There is no reason for the LCB to deny certification if the above criteria are met. Recognizing - and respecting - that the chapter later contemplates revocation or suspension on the basis of fraud, revocation/suspension is not the same as issuance. This subsection only contemplates issuance, and the board will issue certifications to labs that meet the above criteria.

(f) LCB certification of a laboratory is valid for one year. Laboratories must apply for certification renewal each year to maintain their certification. Laboratories applying for a renewal of certification must submit required certification documentation to the LCB at least 30 days prior to their certification expiration date.

Comment:
Subsection (3)(f) may require some leniency in the first year and perhaps after. There's a potential timing issue here where the lab may not have received all of its accreditation paperwork from the WSDA in time to submit it to the LCB more than 30 days prior to their current certification expiration date.

WSDA publishes their accreditation statuses on a website (https://agr.wa.gov/departments/cannabis). The LCB could just reference that list and skip this formality.

(g) Certified laboratories must allow the ((~~WSLCB or the WSLCB's vendor~~)) LCB to conduct physical visits and inspect ((~~related~~)) the

laboratory and 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.~~)) (h) Certified laboratories must report all quality control test results directly into LCB's traceability system within 24 hours of completion. Laboratories 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 samples provided to them for testing was destroyed in compliance with WAC 314-55-097 Cannabis waste disposal or returned to the customer.

Comment:
Proposed language in 0995 (3)(h) should be amended to be in alignment with 102 (2)(b) that ***quality control*** test results must be entered in traceability. Non-mandatory test results are not the property of the LCB.

(i) A certified laboratory must notify the LCB of any change ~~or potential change~~ in their WSDA accreditation status within 48 hours of the change ~~or notice of a potential change. This includes any notices received from WSDA which identify a potential change to accreditation status including, but not limited to, notices to correct, notices of intent, or other administrative notices of potential action for any or all accredited testing parameters~~.

Comment:
Similar to the comment regarding 0995 (2)(d)(i): the LCB has not provided any reason for why the board needs this information outside of their involvement with CLASP. There is nothing contemplated here that would cause the LCB to take an administrative action on the basis of the contents of any of these documents. Propose removing 0995 (2)(i) as it is outside the scope of certification and duplicative of accreditation requirements.

(j) The board will~~may~~ suspend a laboratory's certification if the WSDA revokes or suspends a laboratory's accreditation under chapter 16-310 WAC or if the laboratory conducts testing under this chapter outside of their approved scope of accreditation.

Comment:
The board will - and must- revoke certification if a lab loses their accreditation. There is no scenario where a lab could be legitimately certified but not accredited for a particular parameter.

(((~~6~~))) (4) The ((~~WSLCB or its designee~~)) LCB will take immediate disciplinary action against any certified ((~~lab~~)) laboratory that

fails to comply with the provisions of this chapter, chapter 314-55 WAC, or chapter 16-309 WAC, or falsifies records related to this section or chapter 16-309 WAC including, without limitation, revoking the certification of the certified ((~~lab~~)) laboratory.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-0995, filed 7/6/22, effective 8/6/22. 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 24-21-051, filed 10/9/24, effective 1/7/25)

WAC 314-55-102 Quality assurance and quality control. (1) **Certified laboratory 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. Cannabis licensees must use a laboratory certified by the board (certified laboratory) to conduct quality control testing required under this chapter. Prior to becoming certified, laboratories

must be accredited by the WSDA as specified in chapter ((~~16-309~~)) 16-310 WAC.

(a) Licensees must use LCB certified laboratories to conduct testing on cannabis and cannabis products in the following required fields of testing:

(i) Water activity;

(ii) Cannabinoid concentration analysis;

(iii) Foreign matter inspection;

(iv) Microbiological ((~~screening~~)) testing;

(v) Mycotoxin ((~~screening~~)) testing;

(vi) Pesticide ((~~screening~~)) testing; and

(vii) Residual solvent ((~~screening~~)) testing.

(b) ((~~Certified labs may be certified for heavy metal testing.~~)) Certified labs must comply with the guidelines for ((~~each~~)) quality control fields of testing described in this chapter and chapter 16-309 WAC if they offer ((~~that~~)) testing services to other certified laboratories.

(c) Certified labs may reference samples for ((~~mycotoxin, heavy metal, or pesticide~~)) testing by subcontracting for ((~~those~~)) fields of testing to other laboratories certified by the LCB.

(2) **General product 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~~)) certified laboratories are expected to use ((~~when reporting~~)) two significant figures for all test parameters except foreign matter when reporting test results to the board and on associated certificates of analysis.

(3) **Quality control analysis and** ((**~~screening~~**)) **testing.** The following analysis and ((~~screening~~)) testing are only required for samples that have not been previously tested, or that have been authorized by the LCB to retest following failed quality control testing.

(a) **Cannabinoid concentration analysis.**

(i) A cannabinoid concentration analysis is required to determine the concentration of cannabinoid compounds present in cannabis and cannabis products. The results of the cannabinoid concentration analysis must be reported to the board in the state's traceability system in the required format. The cannabinoid concentration analysis must include testing for at least the following cannabinoids:

(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) Any THC compound that is labeled, advertised, or marketed as part of the product;

(C) Total delta-9 THC;

(D) Total THC for tetrahydrocannabinol compounds other than delta-9 THC;

(E) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total delta-9 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 THC for tetrahydrocannabinol compounds other than delta-9 that are present in an amount greater than 0.2 mg/g must be calculated as follows, where M is the mass or mass fraction of the neutral (THC) or acidic form (THCA) of the tetrahydrocannabinol compound: M total THC = M THC + [(molar mass of THC/molar mass of THCA) × M THCA].

(C) 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 cannabis;

(ii) Water activity rate of more than 0.85 a_w for solid edible products.

(c) **Foreign matter** ((~~**screening**~~)) **inspection.** The sample fails quality control testing for foreign matter ((~~screening~~)) inspection 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**~~)) **testing.** The sample and the related population fails quality control testing for microbiological ((~~screening~~)) testing if the results exceed the following limits:

Unprocessed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	((~~$1.0 * 10^4$~~)) 10,000
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)	((~~$1.0 * 10^3$~~)) 1,000
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1

(e) **Mycotoxin** ((~~**screening**~~)) **testing.** 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**~~)) **testing.** 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 residual solvent ((~~screening~~)) testing is required, certified labs must test for the solvents listed in the table below at a minimum.

Solvent	((~~µg/g~~))	µg/g ((~~ppm (simplified)~~))	CAS #
Acetone	((~~5.0 * 10^3~~))	5000	67-64-1
Benzene	((~~2.0~~))	((~~2~~)) 2.0	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~~)) 2.0	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	

Solvent	((~~µg/g~~))	**µg/g** ((**~~ppm (simplified)~~**))	CAS #
• 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~~**)) **testing**. Heavy metal ((~~screening~~)) testing is required for all DOH compliant product as described in chapter 246-70 WAC. Heavy metal ((~~screening~~)) testing 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~~)) testing 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
Mercury	0.40

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

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

Product	Test(s) Required
Cannabis flower	1. Water activity testing 2. Cannabinoid concentration analysis 3. Foreign matter inspection 4. Microbiological ((~~screening~~)) testing 5. Mycotoxin ((~~screening~~)) testing 6. Pesticide ((~~screening~~)) testing

(b) If 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) 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
Cannabis mix	1. Water activity testing 2. Cannabinoid concentration analysis 3. Foreign matter inspection 4. Microbiological ((~~screening~~)) testing 5. Mycotoxin ((~~screening~~)) testing 6. Pesticide ((~~screening~~)) testing
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. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with a CO_2 extractor like hash oil	1. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with ethanol	1. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with approved food grade solvent	1. Cannabinoid concentration analysis 2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing

Intermediate Product Type	Tests Required
	4. Residual solvent ((~~test~~)) testing 5. Pesticide ((~~screening~~)) testing
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. Cannabinoid concentration analysis 2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing 4. Pesticide ((~~screening~~)) testing
Infused cooking oil or fat in solid form	1. Cannabinoid concentration analysis 2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing 4. Pesticide ((~~screening~~)) testing

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and 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. Cannabinoid concentration analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. Cannabinoid concentration analysis
Infused topical	1. Cannabinoid concentration analysis
Cannabis mix packaged (loose or rolled)	1. Cannabinoid concentration analysis
Cannabis mix infused (loose or rolled)	1. Cannabinoid concentration analysis
Concentrate or cannabis-infused product for inhalation	1. Cannabinoid concentration analysis

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

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

(A) A licensed processor;

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

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

(D) The consumer upon request.

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

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

(7) **Referencing.** Certified laboratories may reference samples for ((~~mycotoxins, heavy metals, and pesticides~~)) testing to other certified labs by subcontracting for ((~~those~~)) fields of testing.

Laboratories may not reference samples for conducting retesting of samples for fields of testing they have already analyzed.

(a) Laboratories 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.

(b) All test results (fields of testing) that were subcontracted to other certified laboratories must be clearly indicated on the certificate of analysis including the name, physical address, and certification number of the laboratory that tested the sample.

Comment:
Mirroring current language in 315-55-103 that - in addition to the name and certification number - the address of the referenced lab must appear on the certificate of analysis.

(8) Certified laboratories are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified laboratory must have records proving all cannabis and cannabis-infused products in the certified lab's possession are held only for laboratory ~~the~~ testing purposes ~~described in this chapter~~.

Comment:
“R&D”, “non-mandatroy”, and “voluntary” testing is allowed and labs may transport and be in possession of cannabis or cannabis infused products for laboratory testing purposes. Voluntary testing is good. It helps licensees make clean and compliant products. The current language in this subsection can be interpreted to mean that voluntary testing is not allowed.

(9) A certificate of analysis issued by a certified laboratory for any cannabis product subject to the requirements of this chapter and chapter 246-70 WAC 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 cannabis or 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 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 69.50.342 and 69.50.345. WSR 24-21-051, s 314-55-102, filed 10/9/24, effective 1/7/25. Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-102, filed 7/6/22, effective 8/6/22. 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.]¶

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Comment:
Subsection (11) of 102 was written for the introduction of pesticide testing in 2022. This subsection created a transition period for those rules being enacted. It is now outdated and can be removed.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

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~~)) including, but not limited to:

(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~~)) LCB or the 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~~)) LCB 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~~)) chapter 314-55 WAC.

(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.~~

Comment:
Similar to the comments regarding 0995 (2)(d)(i) and 0995 (2)(i), the LCB has not provided any reasoning for why the board requires this information outside of their involvement with CLASP. There is nothing here that would cause LCB to take administrative action based on the contents of these documents. As 1035 (2)(a)(i) is outside the scope of certification and duplicates accreditation requirements, it should be removed.

(i~~i~~) The laboratory fails to ((~~report proficiency testing results pursuant to WAC 314-55-1025~~)) notify the LCB of changes in accreditation status with the WSDA as required under WAC 314-55-0995. ~~This includes failure to notify the LCB of any notices received from WSDA which identify a potential for future change to accreditation status for any or all fields of testing as required under WAC 314-55-0995~~.

Comment:
The LCB has not provided reasoning for why the board requires this information outside of CLASP involvement. Nothing here would cause LCB to take administrative action. The second sentence of 1035 (2)(a)(ii) duplicates accreditation requirements and should be removed.

(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 2022 c 16 § 168. WSR 22-14-111, § 314-55-1035, filed 7/6/22, effective 8/6/22. 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 24-21-051, filed 10/9/24, effective 1/7/25)

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW 69.50.326 Licensed cannabis producers and licensed cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Is not cannabis or a cannabis product, as defined in chapter 69.50 RCW; and

(b) Has been tested for contaminants and toxins by a testing laboratory ((~~accredited~~)) certified under this chapter and in accordance with testing standards established in this section.

(2) Licensed cannabis producers and licensed 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 cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a 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 cannabis produced by 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 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 cannabis and 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 cannabis and 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 LCB 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 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 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 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 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) **Cannabinoid concentration analysis.** Cannabinoid concentration analysis is required to confirm the product is not cannabis or a cannabis product, as defined in chapter 69.50 RCW, contains detectable levels of CBD, and to measure the levels of THC, THC-A, CBD, and CBD-A in the product, as provided in WAC 314-55-102. 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 board in the required format. The cannabinoid concentration analysis must be conducted consistent with the requirements under WAC 314-55-102. The following cannabinoid concentration analysis results fail quality control and 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:

(A) The CBD product is cannabis or a cannabis product, as defined in chapter 69.50 RCW;

(B) The CBD product does not contain any detectable levels of CBD or CBD-A; and

(C) 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**~~)) **testing**.

(A) Licensees must use a certified laboratory to ((~~screen~~)) test 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 LCB.

(B) If the LCB, WSDA, other designee of the LCB, or certified lab identifies a pesticide that is not allowed for use or application on 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) Cannabis licensees must also use certified laboratories to screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified laboratories 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**~~)) **testing**. For the purposes of heavy metal ((~~screening~~)) testing, 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((~~:~~)) provided in WAC 314-55-102.

((~~Metal~~	~~Limit, µg/daily dose (5 grams)~~
~~Inorganic arsenic~~	~~10.0~~
~~Cadmium~~	~~4.1~~
~~Lead~~	~~6.0~~
~~Mercury~~	~~2.0~~))

(iv) **Residual solvents** ((~~**screening**~~)) **testing**. Cannabis licensees must use a certified laboratory to 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~~)) WAC 314-55-102. 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
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**)) **testing**. 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((:)) provided in WAC 314-55-102.

((

	Enterobacteria (bile-tolerant gram-negative bacteria)	***E. coli* (pathogenic strains) and *Salmonella spp.***
Unprocessed Plant Material	10^4	Not detected in 1g
Extracted or Processed Botanical Product	10^3	Not detected in 1g))

(vi) **Mycotoxin** ((~~**screening**~~)) **testing**. The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin ((~~screening~~)) testing 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~~)) provided in WAC 314-55-102.

(5) **Test results reporting requirements.** Cannabis licensees must use ((~~a~~)) an LCB certified laboratory to report all test results as required by this section into the state traceability system within 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the LCB 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. Retesting cannabinoid concentrations will not generally 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 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 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 24-21-051, s 314-55-109, filed 10/9/24, effective 1/7/25. Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-109, filed

7/6/22, effective 8/6/22. 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.]

From: Vicki Christophersen
To: LCB DL Rules; Brooke Davies
Subject: WACA - Comments on Draft Rules Implementing HB 2151
Date: Friday, February 7, 2025 4:18:01 PM
Attachments: WACA 2SHB2151updated_01_24_25posting.pdf

External Email

Good Afternoon,

On behalf of the Washington Cannabusiness Association and our laboratory members, I appreciate the opportunity to comment on the draft rules implementing HB 2151 (2024).

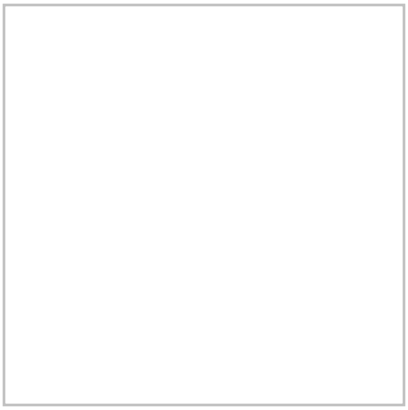
As you know, HB 2151 was enacted to clearly delineate regulatory authority over laboratory accreditation, shifting oversight from the LCB to the WSDA. The intent was for WSDA to assume responsibility for regulating laboratory protocols, procedures, and proficiency standards.

Given this legislative framework, LCB's role should be limited to ensuring that laboratories are accredited by WSDA and that they comply with CCRS reporting requirements, possession limits, and transportation regulations. While LCB should retain the ability to confirm WSDA accreditation, inspect premises and records, oversight of equipment and testing procedures falls under WSDA's jurisdiction.

To align the draft rules with HB 2151 and pending legislation such as HB 1347, we have proposed the attached revisions. We appreciate your attention to ensuring the rules reflect legislative intent and lookforward to continued discussions on this issue.

Best regards,

Vicki Christophersen
Christophersen Inc.
www.christopherseninc.com
360.485.2026



AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-0995 Laboratory certification ((~~and accreditation~~)) **requirements.** The following requirements apply to third-party ((~~labs~~)) laboratories seeking certification by the ((~~WSLCB or its designee to do~~)) LCB to conduct quality assurance testing on cannabis and cannabis products in Washington state, and for certified third-party laboratories (certified ((~~labs~~)) laboratories) to remain certified by the ((~~WSLCB~~)) LCB. The requirements provided in this section are continuing requirements, and must be adhered to and maintained for a third-party ((~~lab~~)) laboratory to remain certified. The ((~~WSLCB~~)) LCB may summarily suspend a ((~~lab's~~)) laboratory's certification if a certified ((~~lab~~)) laboratory 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~~)) LCB and meet WSDA accreditation ((~~and other~~)) requirements under chapter 16-310 WAC prior to conducting quality assurance tests required under this chapter. Certified ((~~labs~~)) laboratories must conspicuously display the

certification letter received by the ((~~WSLCB~~)) LCB upon certification at the ((~~lab's~~)) laboratory's premises in a conspicuous location where a customer may observe it unobstructed in plain sight.

(2) Licensed producers or processors may not have a financial interest in a certified laboratory. A person with financial interest in a certified lab may not have direct or indirect financial interest in a licensed 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~~)) laboratory must disclose to the ((~~WSLCB~~)) LCB by affidavit any direct or indirect financial interest in a licensed cannabis producer or processor.

(3) The following provisions are conditions of certification for third-party testing ((~~labs~~)) laboratories. 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~~)) as described in chapter 16-309 WAC.

(b) Certified ((~~labs~~)) laboratories must follow the analytical requirements ((~~most current version of the *Cannabis Inflorescence and Leaf Monograph* published 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~~)) under chapter 16-309 WAC.

(c) Certified laboratories must be accredited by WSDA under chapter 16-310 WAC.

(d) A laboratory must provide the following documentation to the LCB when applying for certification:

(i) Their most recent audit report issued to them by the WSDA;

(ii) The scope of accreditation listing the accredited parameters;

(iii) Proof of current accreditation with the WSDA;

(iv) Their contact information including: Email, phone number, and physical and mailing addresses.

(e) LCB will provide a certification letter to laboratories applying for certification to indicate whether certification is when the laboratory meets the criteria above. approved or denied. Letters that issue certification approval will

include approved fields of testing, requirements for maintaining certification, and the date of expiration for certification.

(f) LCB certification of a laboratory is valid for one year. Laboratories must apply for certification renewal each year to maintain their certification. Laboratories applying for a renewal of certification must submit required certification documentation to the LCB at least 30 days prior to their certification expiration date.

(g) Certified laboratories must allow the ((~~WSLCB or the WSLCB's vendor~~)) LCB to conduct physical visits and inspect ((~~related~~)) the premises and laboratory and 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.~~)) (h) Certified laboratories must report all test quality control results directly into LCB's traceability system within 24 hours of completion. Laboratories 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 samples provided to them for testing was destroyed in compliance with WAC 314-55-097 Cannabis waste disposal or returned to the customer.

(i) A certified laboratory must notify the LCB of any change ~~or potential change~~ in their WSDA accreditation status within 48 hours of the change ~~or notice of a potential change. This includes any notices received from WSDA which identify a potential change to accreditation status including, but not limited to, notices to correct, notices of intent, or other administrative notices of potential action for any or all accredited testing parameters.~~

(j) The board may suspend a laboratory's certification if the WSDA revokes or suspends a laboratory's accreditation under chapter 16-310 WAC or if the laboratory conducts testing under this chapter outside of their approved scope of accreditation.

(((~~6)~~)) (4) The ((~~WSLCB or its designee~~)) LCB will take immediate disciplinary action against any certified ((~~lab~~)) laboratory that fails to comply with the provisions of this chapter, chapter 314-55 WAC, or chapter 16-309 WAC, or falsifies records related to this section or chapter 16-309 WAC including, without limitation, revoking the certification of the certified ((~~lab~~)) laboratory.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-0995, filed 7/6/22, effective 8/6/22. 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 24-21-051, filed 10/9/24, effective 1/7/25)

WAC 314-55-102 Quality assurance and quality control. (1) **Certified laboratory 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. Cannabis licensees must use a laboratory certified by the board (certified laboratory) to conduct quality control testing required under this chapter. Prior to becoming certified, laboratories must be accredited by the WSDA as specified in chapter ((~~16-309~~)) 16-310 WAC.

(a) Licensees must use LCB certified laboratories to conduct testing on cannabis and cannabis products in the following required fields of testing:

(i) Water activity;

(ii) Cannabinoid concentration analysis;

(iii) Foreign matter inspection;

(iv) Microbiological ((~~screening~~)) testing;

(v) Mycotoxin ((~~screening~~)) testing;

(vi) Pesticide ((~~screening~~)) testing; and

(vii) Residual solvent ((~~screening~~)) testing.

(b) ((~~Certified labs may be certified for heavy metal testing.~~)) Certified labs must comply with the guidelines for ((~~each~~)) quality control fields of testing described in this chapter and chapter 16-309 WAC if they offer ((~~that~~)) testing services to other certified laboratories.

(c) Certified labs may reference samples for ((~~mycotoxin, heavy metal, or pesticide~~)) testing by subcontracting for ((~~those~~)) fields of testing to other laboratories certified by the LCB.

(2) **General product 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~~ certified laboratories are expected to use ~~when reporting~~ two significant figures for all test parameters except foreign matter when reporting test results to the board and on associated certificates of analysis.

(3) **Quality control analysis and** ((~~**screening**~~)) **testing**. The following analysis and ((~~screening~~)) testing are only required for samples that have not been previously tested, or that have been authorized by the LCB to retest following failed quality control testing.

(a) **Cannabinoid concentration analysis.**

(i) A cannabinoid concentration analysis is required to determine the concentration of cannabinoid compounds present in cannabis and cannabis products. The results of the cannabinoid concentration analysis must be reported to the board in the state's traceability system in the required format. The cannabinoid concentration analysis must include testing for at least the following cannabinoids:

(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) Any THC compound that is labeled, advertised, or marketed as part of the product;

(C) Total delta-9 THC;

(D) Total THC for tetrahydrocannabinol compounds other than delta-9 THC;

(E) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total delta-9 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 THC for tetrahydrocannabinol compounds other than delta-9 that are present in an amount greater than 0.2 mg/g must be calculated as follows, where M is the mass or mass fraction of the neutral (THC) or acidic form (THCA) of the tetrahydrocannabinol compound: M total THC = M THC + [(molar mass of THC/molar mass of THCA) × M THCA].

(C) 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 cannabis;

(ii) Water activity rate of more than 0.85 a_w for solid edible products.

(c) **Foreign matter** ((~~**sereening**~~)) **inspection**. The sample fails quality control testing for foreign matter ((~~sereening~~)) inspection 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**~~)) **testing**. The sample and the related population fails quality control testing for microbiological ((~~screening~~)) testing if the results exceed the following limits:

Unprocessed Plant Material	**Colony Forming Unit per Gram (CFU/g)**
Bile Tolerant Gram Negative bacteria (BTGN)	((~~$1.0 * 10^4$~~)) 10,000
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)	((~~$1.0 * 10^3$~~)) 1,000
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1

(e) **Mycotoxin** ((~~**screening**~~)) **testing**. 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**~~)) **testing**. 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 residual solvent ((~~screening~~)) testing is required, certified labs must test for the solvents listed in the table below at a minimum.

Solvent	((~~µg/g~~))	**µg/g (ppm)** ((~~**simplified)**~~))	**CAS #**
Acetone	((~~$5.0 * 10^3$~~))	5000	67-64-1
Benzene	((~~2.0~~))	((~~2~~)) 2.0	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~~)) 2.0	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

Solvent	((~~µg/g~~))	µg/g (ppm) ((~~(simplified)~~))	CAS #
• 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**~~)) **testing**. Heavy metal ((~~screening~~)) testing is required for all DOH compliant product as described in chapter 246-70 WAC. Heavy metal ((~~screening~~)) testing 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~~)) testing 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
Mercury	0.40

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

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

Product	Test(s) Required
Cannabis flower	1. Water activity testing 2. Cannabinoid concentration analysis 3. Foreign matter inspection 4. Microbiological ((~~screening~~)) testing 5. Mycotoxin ((~~screening~~)) testing 6. Pesticide ((~~screening~~)) testing

(b) If 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) 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
Cannabis mix	1. Water activity testing 2. Cannabinoid concentration analysis 3. Foreign matter inspection 4. Microbiological ((~~screening~~)) testing 5. Mycotoxin ((~~screening~~)) testing 6. Pesticide ((~~screening~~)) testing
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. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with a CO_2 extractor like hash oil	1. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with ethanol	1. Cannabinoid concentration analysis 2. Mycotoxin ((~~screening~~)) testing 3. Residual solvent ((~~test~~)) testing 4. Pesticide ((~~screening~~)) testing
Concentrate or extract made with approved food	1. Cannabinoid concentration analysis

Intermediate Product Type	Tests Required
grade solvent	2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing 4. Residual solvent ((~~test~~)) testing 5. Pesticide ((~~screening~~)) testing
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. Cannabinoid concentration analysis 2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing 4. Pesticide ((~~screening~~)) testing
Infused cooking oil or fat in solid form	1. Cannabinoid concentration analysis 2. Microbiological ((~~screening~~)) testing 3. Mycotoxin ((~~screening~~)) testing 4. Pesticide ((~~screening~~)) testing

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and 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. Cannabinoid concentration analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. Cannabinoid concentration analysis
Infused topical	1. Cannabinoid concentration analysis
Cannabis mix packaged (loose or rolled)	1. Cannabinoid concentration analysis
Cannabis mix infused (loose or rolled)	1. Cannabinoid concentration analysis
Concentrate or cannabis-infused product for inhalation	1. Cannabinoid concentration analysis

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

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

(A) A licensed processor;

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

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

(D) The consumer upon request.

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

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

(7) **Referencing.** Certified laboratories may reference samples for ((~~mycotoxins, heavy metals, and pesticides~~)) testing to other certified labs by subcontracting for ((~~those~~)) fields of testing. Laboratories may not reference samples for conducting retesting of samples for fields of testing they have already analyzed.

(a) Laboratories 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.

(b) All test results (fields of testing) that were subcontracted to other certified laboratories must be clearly indicated on the certificate of analysis including the name and certification number of the laboratory that tested the sample.

(8) Certified laboratories are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified laboratory must have records proving all cannabis and cannabis-infused products in the certified laboratory lab's possession are held only for ~~the~~ testing purposes ~~described in this chapter.~~

(9) A certificate of analysis issued by a certified laboratory for any cannabis product subject to the requirements of this chapter and chapter 246-70 WAC 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 cannabis or 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 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 69.50.342 and 69.50.345. WSR 24-21-051, s 314-55-102, filed 10/9/24, effective 1/7/25. Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-102, filed 7/6/22, effective 8/6/22. 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.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

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~~)) including, but not limited to:

(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~~)) LCB or the 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~~)) LCB 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~~)) chapter 314-55 WAC.

(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~~)) notify the LCB of changes in accreditation status with the WSDA as required under WAC 314-55-0995. This includes failure to notify the LCB of any notices received from WSDA which identify a potential for future change to accreditation status for any or all fields of testing as required under WAC 314-55-0995.

(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 2022 c 16 § 168. WSR 22-14-111, § 314-55-1035, filed 7/6/22, effective 8/6/22. 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 24-21-051, filed 10/9/24, effective 1/7/25)

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW

69.50.326 Licensed cannabis producers and licensed cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Is not cannabis or a cannabis product, as defined in chapter 69.50 RCW; and

(b) Has been tested for contaminants and toxins by a testing laboratory ((~~accredited~~)) certified under this chapter and in accordance with testing standards established in this section.

(2) Licensed cannabis producers and licensed 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 cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a 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 cannabis produced by 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 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 cannabis and 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 cannabis and 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 LCB 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 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 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 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 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) **Cannabinoid concentration analysis.** Cannabinoid concentration analysis is required to confirm the product is not cannabis or a cannabis product, as defined in chapter 69.50 RCW, contains detectable levels of CBD, and to measure the levels of THC, THC-A, CBD, and CBD-A in the product, as provided in WAC 314-55-102. 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 board in the required format. The cannabinoid concentration analysis must be conducted consistent with the requirements under WAC 314-55-102. The following cannabinoid concentration analysis results fail quality control and 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:

(A) The CBD product is cannabis or a cannabis product, as defined in chapter 69.50 RCW;

(B) The CBD product does not contain any detectable levels of CBD or CBD-A; and

(C) 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**~~)) **testing**.

(A) Licensees must use a certified laboratory to ((~~screen~~)) test 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 LCB.

(B) If the LCB, WSDA, other designee of the LCB, or certified lab identifies a pesticide that is not allowed for use or application on 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) Cannabis licensees must also use certified laboratories to screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified laboratories 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**~~)) **testing**. For the purposes of heavy metal ((~~screening~~)) testing, 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((~~:~~)) provided in WAC 314-55-102.

((~~Metal~~	~~Limit, µg/daily dose (5 grams)~~
~~Inorganic arsenic~~	~~10.0~~
~~Cadmium~~	~~4.1~~
~~Lead~~	~~6.0~~
~~Mercury~~	~~2.0~~))

(iv) **Residual solvents** ((~~**screening**~~)) **testing**. Cannabis licensees must use a certified laboratory to 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~~)) WAC 314-55-102. 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~~
~~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**~~)) **testing**. 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((~~:~~)) provided in WAC 314-55-102.

	((~~**Enterobacteria (bile-tolerant gram-negative bacteria)**~~	~~***E. coli* (pathogenic strains) and *Salmonella spp.***~~
~~**Unprocessed Plant Material**~~	~~10^4~~	~~Not detected in 1g~~
~~**Extracted or Processed Botanical Product**~~	~~10^3~~	~~Not detected in 1g~~))

(vi) **Mycotoxin** ((~~**screening**~~)) **testing**. The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin ((~~screening~~)) testing 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~~)) provided in WAC 314-55-102.

(5) **Test results reporting requirements.** Cannabis licensees must use ((~~a~~)) an LCB certified laboratory to report all test results as

required by this section into the state traceability system within 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the LCB 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. Retesting cannabinoid concentrations will not generally 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 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 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 24-21-051, s 314-55-109, filed 10/9/24, effective 1/7/25. Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-109, filed 7/6/22, effective 8/6/22. 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.]

From:	Tanner Spires
To:	LCB DL Rules
Subject:	A2LA Comment on Draft Rules to Implement 2SHB 2151 (Chapter 69, Laws of 2024)
Date:	Tuesday, February 11, 2025 11:12:07 AM
Attachments:	WA Cannabis PR 020625.pdf

External Email

Good afternoon,

I invite your attention to our attached comment for the draft rules to “Transfer Authority for accreditation of cannabis testing laboratories (implementing 2SHB 2151)”

Thank you for the opportunity to provide feedback,

Tanner Spires
A2LA | Government Relations Associate
Direct: 240 739 7581 | tspires@a2la.org
Personal Hours: 8:00 am - 4:00 pm (ET)

A2LA Office Hours: 8:00 am - 8:00 pm (ET)

5202 Presidents Court, Suite 220
Frederick, MD. 21703
Main Line: 301.644.3248
www.A2LA.org

February 11, 2025

Washington State Liquor and Cannabis Board

Feedback Sessions on the Transfer of Authority for accreditation of cannabis testing laboratories (implementing 2SHB 2151)

Thank you for the opportunity to provide feedback on the transfer of authority for accreditation of cannabis testing laboratories in Washington state. We appreciate that you see the benefit of laboratory accreditation in the cannabis industry.

By way of background, A2LA is a non-profit, third-party accreditation body with over 4000 actively accredited certificates representing all 50 states including over 100 organizations accredited for cannabis testing. This includes the Washington State Department of Agriculture Chemical and Hop Laboratory. We have been granting accreditation to testing laboratories in various industries since 1979. The criteria forming the basis for our laboratory accreditation program is ISO/IEC 17025 General requirements for the competence of testing and calibration laboratories. We ourselves, as an accreditation body, have been evaluated against rigorous standards in providing this accreditation service and are recognized globally as an International Laboratory Accreditation Cooperation (ILAC)-recognized accreditation body.

In establishing, implementing, and further refining a cannabis program, laboratory testing and the ensuing test results, are critical to the program. Regular laboratory assessments leading to accreditation will provide the users of the test reports with confidence that the data is backed by a quality management system, technically competent testing, qualified personnel, and the use of the appropriate facilities and testing equipment.

Another important aspect to consider is what may happen if/when cannabis becomes federally legalized. A likely scenario would be that states must meet a set of minimum requirements set by a federal regulator in order to harmonize the industry to facilitate interstate commerce. Multiple states have already begun to align testing and accreditation requirements in order to prepare for harmonization. Requiring that laboratories are accredited to industry consensus standards such as ISO/IEC 17025, by an internationally recognized accreditation body may help assure that laboratory test reports can be accepted across government jurisdictions, which may prove beneficial when cannabis gains legalization at the federal level.

Using ISO/IEC 17025 as a baseline still allows state agencies to tailor their programs by including additional requirements as needed. By relying on an independent accreditation body to carry out the assessments, it frees the state agency to dedicate their resources elsewhere such as providing oversight of the program and enforcement actions.

We respectfully offer the following comments to the proposed rule.

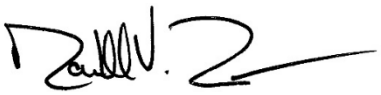
- We recommend providing an option in the rule to include language that allows third party testing facilities to operate a formal quality management system under the International Organization for Standardization (ISO) and obtain and maintain ISO/IEC 17025 accreditation through **an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) or subsequent organization.**

By requiring internationally recognized accreditation bodies, this will help ensure qualified accreditation bodies are providing the service and that the laboratory approvals are harmonized amongst the different accreditation bodies participating in the program. By leaving the accreditation part to the independent accreditation bodies, you are helping to harmonize the industry, supporting private businesses, and ensuring that the state has more resources to focus on oversite of its programs, and not using valuable state resources when there is already a well-established private industry dedicated to quality accreditation programs.

It should be noted that ILAC has officially merged with another organization and is in the process of implementing the new organization. Over the next few years ILAC will cease to exist by name and will be replaced by the new organization, the Global Accreditation Cooperation Incorporated.

We would be pleased to provide more background and elaborate on our comments at your convenience. If interested, please contact me at rquerry@A2LA.org.

Sincerely,



Randall Querry

Director of Government Relations, A2LA

From:	Ehrlich, Trecia (AGR)
To:	LCB DL Rules
Cc:	Jacobs, Daniel (LCB); Laflamme, Denise M (LCB); Lukela, William (LCB); Nordhorn, Justin T (LCB); McLain, Kelly (AGR); Lukela, William (LCB); Sandison, Derek (AGR)
Subject:	Comments on 2151 Rules
Date:	Thursday, February 13, 2025 3:56:13 PM
Attachments:	2151 Rules Feedback 2_13.pdf

Hello,

Thank you for the opportunity to submit feedback on the proposed rules implementing 2SHB 2151. The feedback we have already provided from our scientists still stands, but we wanted to make sure we also encapsulated our feedback on some administrative components of the rule.

Sincerely,

Trecia Ehrlich

Trecia Ehrlich | Cannabis Programs Manager
Pronouns: she/her
Agricultural & Environmental Services Division | Washington State Department of Agriculture
360-584-3711 agr.wa.gov

STATE OF WASHINGTON

DEPARTMENT OF AGRICULTURE

P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

The Washington State Department of Agriculture (WSDA) appreciates the opportunity to provide comments to the Washington State Liquor and Cannabis Board on the *Draft Rule Language for Implementing 2 SHB 2151: Transfer of Authority for Accreditation of Cannabis Testing Laboratories*. Our scientific team has provided commentary on various portions of the rule throughout the iterative rule writing process but we must provide a final piece of feedback on some of the administrative components of the rule.

The three sections of rule listed below are instances in which the LCB request information and or documentation from the laboratories that can easily be provided from the WSDA directly to the WSLCB. There are some components of information that may not be necessary for the LCB to obtain to maintain certification. WSDA recommends striking the three rule sections listed below so that the two agencies can come to a collaborative agreement about what information is necessary, when, and how it should be shared to reduce redundancies and regulatory burdens for the labs and agencies.

WAC 314-55-0995(3) (i) which states "A certified laboratory must notify the LCB of any change or potential change in their WSDA accreditation status within 48 hours of the change or notice of a potential change. This includes any notices received from WSDA which identify a_ potential change to accreditation status including, but not limited to, notices to correct, notices of intent, or other administrative notices of potential action for any or all accredited testing parameters."

WAC 314-55-0995 (4) (d) (i)-(iii) A laboratory must provide the following documentation to theLCB when applying for certification: (i)Their most recent audit report issued to them by the WSDA; (ii)The scope of accreditation listing the accredited parameters; (iii)Proof of current accreditation with the WSDA;

WAC 314-55-1035 (2)(b)(ii) and (iii) which requires that laboratories "notify the LCB of changes in accreditation status with the WSDA… and includes failure to notify the LCB of any notices received from WSDA which identify a potential for future change to accreditation status…"

WSDA provides all final accreditation decisions for laboratories to the LCB, and maintains a public-facing website with the up-to-date parameter status of each laboratory. We are concerned that the language in these sections will create redundancies and inefficiencies for both of our agencies and the laboratories we serve. We seek to create the most streamlined and transparent process for the regulated community as possible and anticipate challenges with the implementation of both of our

rule sets if laboratories are faced with the burden of complying with iterative processes. To avoid duplicative regulation, WSDA requests that LCB remove these sections from draft rule.

If LCB intends to keep this language in the rules, WSDA requests clarification on what LCB means by *"Any notices which identify a potential change to accreditation status"* as it has broad and unclear implications which could be considered any email that includes feedback for the laboratories. WSDA does not understand why LCB would need this information, so we are unable to explain it to our regulated communities when we are asked.

We believe that with some preparatory work between the two agencies on what information needs to be shared, why it needs to be shared, and the best way to communicate it, both of our agencies can work together to ensure proper communication without requiring additional regulations.

Sincerely,

Trecia Ehrlich

Trecia Ehrlich, WSDA Cannabis Program Manager
Agricultural Environmental Services Division,
Washington State Department of Agriculture

Pc: Kelly McLain, WSDA Assistant Director
Daleena Blair, WSDA Policy Assistant