

Attachment C

Marijuana Quality Control Rule Proposal – Public Comment Received Through 7/8/2020

	Date	Type	Commenter	Comment
1	1//22/2020	Email	Matthew Shellenberger	<p>Dear LCB Rules Coordinator,</p> <p>I would like to add comments to marijuana quality control rules WSR #20-03-176.</p> <p>We are in support of:</p> <ul style="list-style-type: none"> • increased sample lot size. • mandatory testing for pesticides and heavy metals. • more lab over site for apples to apples consistency. • access to the same array and level of testing the WSDA claims to achieve. <p>We have the following concerns with QA testing:</p> <ul style="list-style-type: none"> • we have seen gross inconsistency in results both pesticide and THC. • the WSDA lab is not certified by LCB. • the WSDA tests for things we have no access to test for in WA. • the LCB certified labs do not have the ability to test for many substances to the levels the WSDA claims to test to, if at all. • passing out fines for substances ubiquitous in the environment and that we have no access to discover is unethical and unreasonable. <p>Response: WSDA contract is for work that the WSDA performs for the LCB. LCB cannot accredit the AG lab. They already meet the standards (ISO 17025). Access to what WSDA is doing or not; labs to the minimum. Our labs could do everything WSDA does, but it comes down to price. Think about revisions to 108 when appropriate.</p>
2	5/26/2020	Email	Mark Ambler	<p>From: t1producerassociation@gmail.com <t1producerassociation@gmail.com> Sent: Tuesday, May 26, 2020 9:21 AM To: U-D-LCB-Rules <rules@lcb.wa.gov> Subject: WSR 20-07-052 Cost Benefit Analysis Request</p> <p>Kathy,</p> <p>Per the guidance on the Washington State Register for WSR 20-07-052, we would like to request a copy of the cost-benefit analysis.</p> <p>Thank You,</p>

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				<p>Mark Ambler</p> <p>TiPA</p>
2	5/26/2020	Email	<p>WSLCB (Response to Mr. Ambler)</p>	<p>On Tue, May 26, 2020 at 9:31 AM Hoffman, Katherine (LCB) <katherine.hoffman@lcb.wa.gov> wrote: Mark,</p> <p>Documents bulleted below are attached. The small business economic impact statement and significant analysis have been available on line under proposed rulemaking since they were presented to the Board on January 22.</p> <ul style="list-style-type: none"> • Small Business Economic Impact Statement • Significant Analysis <p>Let me know if you have questions.</p>
3	5/26/2020	Email	<p>Mark Ambler</p>	<p>Kathy,</p> <p>Thank you for the quick response. Here's an excerpt from the "<i>Significant Legislative Rule Analysis</i>" dated January 22, 2020 (page 9, second paragraph):</p> <p>"Retaining the five pound lot size for sample collection continues to reduce the possibility of non-representative samples. Although the concept of expanding lot size to ten pounds or more was discussed during rule development, no verifiable evidence or data was submitted to support the idea that a representative sample could be realized in larger lot sizes, nor was there any consensus between any of the commenters regarding lot size."</p> <p>I conducted some statistical calculations for you that I believe reveal the issue. Consider a 5 lb. lot consisting entirely of 1 gram nugs of which a percentage are "hot" which means they are unacceptably contaminated.</p> <p>The current sampling procedure of 4 nugs per 5 lbs.:</p> <p>Statistically results in a 25% failure rate (false negative for contaminants) in lots with 19% of the nugs being "hot"</p> <p>Statistically results in a 51% failure rate in lots with 12% of the nugs being "hot"</p> <p>Statistically results in an 82% failure rate in lots with 4% of the nugs being "hot"</p> <p>Statistically results in a 96% failure rate in lots with 1% of the nugs being "hot"</p> <p>A new sampling procedure of 50 nugs per 100 lbs.:</p> <p>Statistically results in a 0% failure rate in lots with 19% of the nugs being "hot"</p> <p>Statistically results in a 0% failure rate in lots with 12% of the nugs being "hot"</p> <p>Statistically results in a 0% failure rate in lots with 4% of the nugs being "hot"</p> <p>Statistically results in a 45% failure rate in lots with 1% of the nugs being "hot"</p> <p>Consider this scenario ending in a final product of all 1 gram bags of flower and the contaminant being a highly dangerous illegal pesticide. The sampling program is not currently, adequately protecting the consumer on this front. I would also recommend some sampling QA/QC. The program currently has none. I recommend triplicate samples per 100 lbs. which would also reduce the 1% hot nug failure rate of the new program to zero.</p>

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				<p>Regards, Mark Ambler</p> <p>Response: thank you for your comments. They did not result in rule revision.</p>
3	5/27/2020	Email	Exchange between Mr. Ambler/WSLCB	<p>Kathy,</p> <p>I provided comments because the Testing Program needed revision before filing the CR-102. Now I think the only choice is to remove the proposed rule set.</p> <p>This is a serious health issue. Every day of inaction results in consumer exposures. If anyone disagrees, they're wrong. This is simple math. This has the capability to blow up in your faces. Don't treat it lightly.</p> <p>Very Concerned, Mark Ambler</p> <p>On Wed, May 27, 2020 at 11:01 AM Hoffman, Katherine (LCB) <katherine.hoffman@lcb.wa.gov> wrote:</p> <p>Mark,</p> <p>Your comments have been provided to the Board.</p> <p>Remember, the Board just approved <i>filing</i> the CR102 <i>proposal</i> and establishing a hearing date. The Board has not adopted the proposed rules. Your comments will be considered, along with all other comments received before the public hearing, and during the public hearing on July 8.</p> <p>Kathy Hoffman, MPA</p> <p>From: t1producerassociation@gmail.com <t1producerassociation@gmail.com> Sent: Wednesday, May 27, 2020 10:53 AM To: Hoffman, Katherine (LCB) <katherine.hoffman@lcb.wa.gov> Cc: U-D-LCB-Rules <rules@lcb.wa.gov> Subject: Re: WSR 20-07-052 Cost Benefit Analysis Request</p> <p>Kathy,</p> <p>Did you share my comments with the Board before they made their decision today on the Testing CR-102?</p> <p>Regards,</p> <p>Mark</p>
4	6/1/2020	Email	John Kingsbury	<p>Hi Katherine,</p>


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			<p>Here are some comments for quality assurance.</p> <p><u>Mold testing.</u> I understand that, unlike other states, LCB has adopted mycotoxin testing in lieu of mold testing. We need a floor for mold CFUs. While most other states have action levels of 10,000 CFUs for molds, if we maintain mycotoxin testing, I believe we need to put our action level at 60,000 as an absolute minimum safety standard. I believe this number is too high to high for patients, but that is another issue.</p> <p>If LCB intends to persist with the view that medical product is not definable and does not matter, and that patients need to shut up and buy rec weed, then the highest safe number should be 30,000 CFUs. I got to 30,000 and 50,000 CFUs by reading research and picking the highest reasonable limits.</p> <p>In any case, we have had immune compromised patients in this state die from confirmed aspergillus inhaled from cannabis. That is a documentable fact.</p> <p>I could provide the research behind this but let me share the story instead.</p> <p>Given the re-growth of the unregulated medical market that I have been seeing since 2017 or so, I decided I wanted to begin testing unregulated samples. During that process, I had a good number of patients tell me that regulated product was making them sick. Given who these people are, and the process that they were going through to verify that it was the cannabis that was making them sick, I believed them when they said the products were making them ill. The people who had not thrown away their regulated product gave me the balances. Consequently, I built up a cabinet full of cheap 502 ounces.</p> <p>While I was having the unregulated product tested, I occasionally put one of these regulated samples in the mix. Much to my surprise, they were meeting Washington State standards. A couple of licensees suggested that I test these samples for mold. So, to be fair and reflect current conditions, I bought 502 ounces and I throw them in the mix with the unregulated products while I am taking tests to the label - (while they were fresh and otherwise uncontaminated, and not five year old samples that some patient gave to me.) What I found were astonishingly high levels of mold as the rule, not as the exception. I spoke to someone at UW medical center and UC Berkley and they told me that high levels of mold, even outside the mycotoxins being tested for, could be life threatening for some patients.</p> <p>My point is that, since Washington State has decided that the recreational supply is going to be the medical supply, you need to set standards with that in mind -otherwise standards are being set with reckless disregard for the lives of some of its citizens. The minimums I suggest are high.</p> <p><u>Pyrethrin.</u> There needs to be maximum levels for pyrethrin and piperonyl butoxide -period. These agents are powerful neurotoxins -which is how they were designed to function. Many patients disproportionality suffer from neurological disorders. That is why they consuming cannabinoids in the first place.</p> <p>I am attaching a video of pyrethrin poisoning in cat who had a regulated product (flea medicine) applied to it. These things are not safe. Having action levels is not a radical notion. And, so long as LCB persists in the view that the patient community needs to just shut up and buy recreational cannabis, the standard matters here. https://www.youtube.com/watch?v=SAhZFo7dcUw</p> <p>I discovered from testing samples of old product that <u>piperonyl butoxide</u> is extremely persistent. It has a similar action as pyrethrin and again action levels are not a radical idea.</p> <p>In any case, I hope you will care about the public safety and account for my comments.</p> <p>John Kingsbury</p> <p>Response: Mold/action limits were determined several years ago; revisit work done years ago around myco and mold. Pyre asterisk was mistake. These comments did not result in rule change.</p>
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5	6/2/2020	Email	John Kingsbury	<p>Hi Katherine,</p> <p>I understand that azadirachtin and neem oil are allowed at any level on cannabis.</p> <p>Azamax, the most popular source of azadirachtin, is specific in its literature that it is not food safe, and its use should be limited to ornamental plants.</p> <p>Azadirachtin is systemic and extremely persistent, often detectable into a second generation copy (meaning: it can be detectable in a grown cutting when they chemical was applied to the mother plant).</p> <p>John</p> <p>https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3841499/</p> <div style="display: flex; align-items: center;">  <div style="margin-left: 20px;"> <p>Neem oil poisoning: Case report of an adult with toxic encephalopathy - PubMed Central (PMC)</p> <p>Sundaravalli et al., in a case series of 12 children with neem oil poisoning, who were given single dose of Neem oil (25-60 ml), reported fatality in 10 cases with features of toxic encephalopathy and metabolic acidosis. Sinnaih et al., reported Reyes-like syndrome in fatal cases of Neem oil poisoning in a case series of 13 children.</p> <p>www.ncbi.nlm.nih.gov</p> </div> </div>
6	6/4/2020	Email	John Kingsbury	<p>Katherine,</p> <p>You may add that study, but probably more important these general use studies. Note that the MSDS for azadirachtin (attached), mentions 'inhalation' as potentially hazardous. Azadirachtin is labeled as appropriate for use on non-food, ornamental plants></p> <p>http://gh.growgh.com/docs/MSDS/AzaMaxHCSv4_eng.pdf</p> <p>https://merryjane.com/health/the-curious-case-of-cannabis-hyperemesis-syndrome</p> <p>https://efsa.onlinelibrary.wiley.com/doi/10.2903/j.efsa.2018.5234</p> <p>"Neem is POSSIBLY SAFE for most adults when taken by mouth for up to 10 weeks, when applied inside the mouth for up to 6 weeks, or when applied to the skin for up to 2 weeks. When neem is taken in large doses or for long periods of time, it is POSSIBLY UNSAFE. It might harm the kidneys and liver."</p> <p>"Auto-immune diseases" such as multiple sclerosis (MS), lupus (systemic lupus erythematosus, SLE), rheumatoid arthritis (RA), or other conditions: Neem might cause the immune system to become more active. This could increase the symptoms of auto-immune diseases. If you have one of these conditions, it's best to avoid using neem.</p>

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				<p>https://www.rxlist.com/neem/supplements.htm</p> <p><u>Summary at the top</u> https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2011.1858</p> <p>In this article, each claim is cited and the journal referenced at in footnotes.</p> <p>https://www.curejoy.com/content/side-effects-of-neem/</p>
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7	6/12/2020	Email	Kristin Baldwin (Cannabis Alliance)	<p>June 12, 2020</p> <p>Katherine Hoffman Rules Coordinator Washington State Liquor and Cannabis Board Via email</p> <p>Dear Ms. Hoffman:</p> <p>The Cannabis Alliance commends the Washington State Liquor and Cannabis Board (LCB) for continuing to include stakeholder groups in the decision-making process. The complexities of our industry run deep, and only through continued collaboration between all affected parties can we reliably foster a progressive and long-lasting marketplace for safe and accountable marijuana in Washington state in accordance with voter initiative.</p> <p>The following are areas of concern with the proposed rules amending the current marijuana quality assurance sampling protocols described in WAC 314-55-101, and marijuana proficiency testing described in WAC 314-55-1025 that The Cannabis Alliance has identified. The cannabis industry as a whole is concerned with balancing both product safety for consumers as well as containing the costs and burdens on quality assurance testing.</p> <p>Cannabis Alliance has polled our members about the proposed Quality Assurance Rules and has the following barriers as well as proposed solutions around the new Quality Assurance testing rules:</p> <table><tr><th>Barriers</th><th>Proposed Solutions</th></tr><tr><td>Cost-effectiveness – testing small lot sizes makes testing cost-prohibitive to smaller producers.</td><td><p>Washington State Department of Agriculture (WSDA) should assist the Liquor and Cannabis Board (LCB) with developing a yearly randomized testing protocol for cannabis farms for pesticides and heavy metals. All required ISO2 testing still needs to be conducted for any product bound for retail stores.</p><p>For material meant for extraction, farms should be tested at a percentage of their crop based on the P/P's tier. This method of testing would equalize the cost over all of the tiers.</p></td></tr></table>	Barriers	Proposed Solutions	Cost-effectiveness – testing small lot sizes makes testing cost-prohibitive to smaller producers.	<p>Washington State Department of Agriculture (WSDA) should assist the Liquor and Cannabis Board (LCB) with developing a yearly randomized testing protocol for cannabis farms for pesticides and heavy metals. All required ISO2 testing still needs to be conducted for any product bound for retail stores.</p> <p>For material meant for extraction, farms should be tested at a percentage of their crop based on the P/P's tier. This method of testing would equalize the cost over all of the tiers.</p>
Barriers	Proposed Solutions							
Cost-effectiveness – testing small lot sizes makes testing cost-prohibitive to smaller producers.	<p>Washington State Department of Agriculture (WSDA) should assist the Liquor and Cannabis Board (LCB) with developing a yearly randomized testing protocol for cannabis farms for pesticides and heavy metals. All required ISO2 testing still needs to be conducted for any product bound for retail stores.</p> <p>For material meant for extraction, farms should be tested at a percentage of their crop based on the P/P's tier. This method of testing would equalize the cost over all of the tiers.</p>							

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				<p>Cost-effectiveness – testing small lot sizes makes testing cost-prohibitive to smaller producers. (continued)</p>	<p>Corrective action should be reflected by the Washington State Department of Agriculture (WSDA) protocols, which are solution-oriented. Punitive actions should carry the burden of proof of intent or negligence.</p> <p>Concentrate producers must get every finished lot of inhalable concentrate tested because these products present the highest incidence of pesticide contamination.</p> <p>If the product doesn't pass the pesticide/heavy metal test, the P/P would have an opportunity to have the crop or the concentrate remediated or retested at a second lab to ensure human error wasn't a factor and to account for a certain plus/minus range that is inherent in all testing</p>
				<p>Labs do not have a standardized testing methodology</p>	<p>The Washington State Department of Ecology should provide interim guidance to the labs by 2022.</p>
				<p>Lack of sufficient agency cooperation between the Liquor and Cannabis Board, Departments of Ecology, WSDA, and Health to staff such a large endeavor.</p>	<p>There must be a clear understanding of roles and responsibilities for the agencies involved with testing. A written interagency agreement may be needed for any testing issues not already addressed by existing interagency agreements.</p> <p>Information on agency roles and responsibilities for testing, including any interagency agreements, must be shared with the cannabis industry in a timely manner.</p>
				<p>There is not a technical ability to remediate pest/HM for conc or crop. WA State Dept of Ecy has not been tasked with writing the product standards.</p>	

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				<div style="border: 1px solid black; padding: 10px; margin-bottom: 10px;"> <p>Lack of research on appropriate pesticides and lack of sufficient interagency coordination for drift investigations</p> <p>The Liquor and Cannabis Board (LCB) and the Washington State Department of Agriculture (WSDA) should support industry efforts to form a Cannabis Commission. A Commission could help to fund needed pesticide research on cannabis to be shared with the hemp industry as well.</p> <p>The Washington State Department of Agriculture (WSDA) should be the lead agency for drift investigations. A written interagency agreement may be needed for any issues not already addressed by existing interagency agreements.</p> </div> <p>We respectfully submit these suggestions as we need the Liquor and Cannabis Board to continue working with industry leaders and other state agencies who have the requisite expertise to revise and revamp the testing procedures to keep up with the evolving science of cannabis. There is still much work to be done concerning the details about how we as an industry approach to quality assurance. An advisory panel is the next logical step for the progression of our testing rules.</p>
8	6/17/2020	Email	Kim Webster (Form letter, WSIA)	<p>Dear Kathy et al. I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact, these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. Lot level testing for pesticides and heavy metals is not the answer, especially given the arbitrarily low limit on lot size and the reality that heavy metal contamination is most likely to be introduced by vape cartridge hardware. The SBEIS fails to consider the implication of these changes given the current business environment that has seen significant impacts from COVID19 including increased costs, supply chain interruptions, and additional safety requirements. COVID19 has also forced the economy into a recession and it remains to be seen how significantly this contraction in the economy will impact our nascent industry. Now is not the time to significantly increase the cost for small independent farmers to continue operating. In addition, the rulemaking seems premature given the lack of confidence in the consistency and reliability of Washington's labs since the WSDOE standardization and accreditation project has not been completed nor implemented. I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a</p>

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				diverse workgroup of representatives from all trade associations as well as stakeholder groups to have a more in-depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies. Thank you
9	6/17/2020	Email	Galadriel Walser (Form letter)	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>Lot level testing for pesticides and heavy metals is not the answer, especially given the arbitrarily low limit on lot size and the reality that heavy metal contamination is most likely to be introduced by vape cartridge hardware.</p> <p>The SBEIS fails to consider the implication of these changes given the current business environment that has seen significant impacts from COVID19 including increased costs, supply chain interruptions, and additional safety requirements. COVID19 has also forced the economy into a recession and it remains to be seen how significantly this contraction in the economy will impact our nascent industry. Now is not the time to significantly increase the cost for small independent farmers to continue operating.</p> <p>In addition, the rulemaking seems premature given the lack of confidence in the consistency and reliability of Washington's labs since the WSDOE standardization and accreditation project has not been completed nor implemented.</p> <p>I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a diverse workgroup of representatives from all trade associations as well as stakeholder groups to have more in depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies.</p> <p>We as a farm have just started to make enough money to offer our employees medical insurance, these kind of increased costs would prohibit us from adding any additional benefits.</p>
10	6/17/2020	Email	Wendy Griffiths (Form letter)	<p>Dear Kathy et al.</p> <p>My name is Wendy Griffiths, and I co-own and manage a family owned farm, Urban Farms of Washington, LLC, with my husband and son. We are a tier 2 producer/processor located in north central Washington.</p> <p>Having just survived the terrible growing season last year with the early hard freeze and snow last September, I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. Lot level testing for pesticides and heavy metals is not the answer, especially given the arbitrarily low limit on lot size and the reality that heavy metal contamination is most likely to be introduced by vape cartridge hardware. The SBEIS fails to consider the implication of these changes given the current business environment that has seen significant impacts from COVID19 including increased costs, supply chain interruptions, and additional safety requirements. COVID19 has also forced the economy into a recession and it remains to be seen how significantly this contraction in the economy will impact our nascent industry.</p> <p>Now is not the time to significantly increase the cost for small independent farmers to continue operating. In addition, the rulemaking seems premature given the lack of confidence in the consistency and reliability of Washington's labs since the WSDOE standardization and accreditation project has not been completed nor implemented. I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a diverse workgroup of representatives from all trade</p>

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				associations as well as stakeholder groups to have more in depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies.
11	6/18/2020	Email	Sean Stringer (Form letter)	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026</p> <p>There is a significant impact for everyone through the whole supply chain. There are alternative ways to handle testing than testing every 5lb lot. We have the Dept of Ag which I believe specializes in testing products produced on large farms, which could give everyone a better idea of what they are really smoking.</p> <p>We don't need to follow in the footsteps of others, nor do we need to re-invent this process on arbitrary science.</p> <p>I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a diverse workgroup of representatives from all trade associations as well as stakeholder groups to have more in depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies.</p>
12	6/19/2020	Email	John Gereighty (Form letter)	<p>Dear Kathy et al. I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. Lot level testing for pesticides and heavy metals is not the answer, especially given the arbitrarily low limit on lot size and the reality that heavy metal contamination is most likely to be introduced by vape cartridge hardware. The SBEIS fails to consider the implication of these changes given the current business environment that has seen significant impacts from COVID19 including increased costs, supply chain interruptions, and additional safety requirements. COVID19 has also forced the economy into a recession and it remains to be seen how significantly this contraction in the economy will impact our nascent industry. Now is not the time to significantly increase the cost for small independent farmers to continue operating. In addition, the rulemaking seems premature given the lack of confidence in the consistency and reliability of Washington's labs since the WSDOE standardization and accreditation project has not been completed nor implemented. I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a diverse workgroup of representatives from all trade associations as well as stakeholder groups to have more in depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies. Thank you,</p>
13	6/25/2020	Email	Jamie Hoffman	<p>Adopting a pesticide and heavy metal testing plan makes good sense. However, we strongly oppose the rule as it stands now and encourage further research into how the ruling structure will severely hurt the Cannabis industry and its stakeholders.</p> <p>As an I502 licensed processor for the past 6 years, this recent political need of frequent testing is concerning. I've never been more concerned over a rule than <u>this</u> rule.</p> <p>Kathy, since we met last Fall, I asked your staff if they had any idea how many Lots are currently tested by the labs on a monthly basis and not one person on your staff had the answer. I also asked how long it takes to perform a pesticide and heavy metal test, again, not one person on the panel, including yourself had the answer. Do you know now? Deciding to test every five pounds is absurd. <i>We are in wonderment of how little thought was put into this suggestion.</i></p> <p>Our Stakeholders are constantly vetted, inspected and audited by the following agencies and methods:</p> <p>1) Finger printing stakeholders</p>

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				<p>2) Financial investigations 3) LCB annual inspections 4) City of Seattle annual inspections 5) WSDOA annual inspections 6) Puget Sound & Air semi-annual inspections 7) Fire Department semi-annual inspections 8) Potency & microbial batch weekly testing</p> <p>The pesticide & heavy metal testing plan is currently written to police our businesses on a daily basis. Testing for pesticides at the recommended rate of frequency would be devastating to our industry. <u>Many growers use ABSOLUTELY NO PESTICIDES but will be penalized by this rule.</u> Any business that needs that amount of policing for pesticides or heavy metals SHOULD NOT BE IN BUSINESS.</p> <p><i>Creating a practical and cost effective testing plan makes sense ONLY if managed by a third party inspector which will be hard government work to create an agency to oversee. We expect you to do the hard work and make sure our essential businesses stay intact.</i></p> <p>The 5 labs in Washington State have a financial burden of purchasing expensive equipment to test only a small variety of metals and pesticides. The LCB has done zero analysis proving that the Cannabinoid structure of the Cannabis plant will give accurate pesticide & heavy metal results. Again, hard work to provide analysis that the long list of pesticides and heavy metals can be detected within the plant structure.</p> <p>I suggest a practical annual inspection is considered for the future stability of our industry.</p> <ul style="list-style-type: none"> • ANNUAL inspection and testing for pesticides & metal for each plant variety performed by a third party agency. • Complete testing done for each stakeholder on their licensed anniversary date to eliminate bottleneck. • PENALTY if a trace amount of pesticide or metal is detected by THEN increasing the testing frequency. <p>There are only 5 businesses that will survive this absurd recommendation of 5 pound Lot testing.</p> <p>This rule is a serious blunder. It will effect jobs, businesses and the consumers plus ignite the blackmarket with serious fuel. I'm surprised by the lack of foresight and minimal planning. Taking the easy road to have this be a self-serving, self-run and self-funded is not practical. Do the hard work needed to have a government-run agency oversee this new initiative.</p> <p>Please show confidence in our industry stakeholders and reduce the frequency of testing.</p> <p>Respectfully - Jamie</p>
14	6/25/2020	Email	Ray Robbin	<p>Dear Ms. Hoffman,</p> <p>My name is Ray Robbin and I am a member of Emerald Jane's LLC, we are a tier 2 producer processor. We recently moved to a new larger facility. We now employ over 20 people.</p>

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				<p>I just took the time to read all of the documents you provided. We all understand and want the same thing, extremely safe products. That is a given. So I completely understand all of the science involved about wanting to test for pesticides and heavy metals.</p> <p>However if you roll this plan out with the the 5 pound lot size, It would put me out of business in no time. As I mentioned we just started at the new facility and are just now starting to break even. Hundreds of thousands of dollars in testing fee's would be untenable. Not only the cost, but the indirect cost of waiting weeks for samples to be processed, this would create a double whammy.</p> <p>As Jamie mentioned below, this added burden would increase cost to the consumer, reduce tax revenue and fuel the black market.</p> <p>I am 100% pesticide free and always have been. I spend tens of thousands of dollars on beneficial bugs that allows me to not have the need for pesticides. In that regard it is even worse for myself and other growers with high ethical standards.</p> <p>Perhaps a better approach would be to do random testing of all producers and processors, a system like that would meet the goal intended of providing safe products and it would not put everyone out of business.</p> <p>Thank you for your consideration,</p>
15	6/26/2020	Email	Scott Berka (Form letter, WSIA)	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>Lot level testing for pesticides and heavy metals is not the answer, especially given the arbitrarily low limit on lot size and the reality that heavy metal contamination is most likely to be introduced by vape cartridge hardware.</p> <p>The SBEIS fails to consider the implication of these changes given the current business environment that has seen significant impacts from COVID19 including increased costs, supply chain interruptions, and additional safety requirements. COVID19 has also forced the economy into a recession and it remains to be seen how significantly this contraction in the economy will impact our nascent industry. Now is not the time to significantly increase the cost for small independent farmers to continue operating.</p> <p>In addition, the rulemaking seems premature given the lack of confidence in the consistency and reliability of Washington's labs since the WSDOE standardization and accreditation project has not been completed nor implemented.</p> <p>I would like the WSLCB to restart the rule-making process on this, going back to the CR 101 stage, putting together a diverse workgroup of representatives from all trade associations as well as stakeholder groups to have more in depth discussion of proposed rules with a commitment to exploring alternative approaches to testing and more effective cost mitigation strategies.</p>
16	7/2/2020	Email	Kris Labanauskas	<p>Dear Kathy et al.</p> <p>I am a small family-owned producer processor and am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. These rules as written would create additional costs to operate our business. I would ask that the WSLCB look into other options to testing that would still keep products safe but not put more financial burden on a small business such as</p>

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				mine.
17	7/2/2020	Email	Jade Stefano	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
18	7/2/2020	Email	TJ McDonald	<p>Hey Kathy,</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.


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19	7/5/2020	Email	Steven McCombs	<p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Being that I am a Tier 2 Producer it will increase my cost of production significantly, which most of my customers will probably balk at. Here is an example of the increased cost - Produce 1000 pounds, at 5 pound lot size that is 200 tests. Current published cost, from a leading testing facility, for the complete test plus Pesticides and Heavy Metals is \$265. That would total \$53,000. Almost \$0.12 per gram! I would say that this is a significant impact on Producers without much benefit to the ultimate end user.</p> <p>Along with the existing issues of QC lab reliability and consistency these proposed rules should not be adopted.</p> <p>The major flaw that I see in the proposed rule is that the proposed testing system can be 'gamed' since there is not a 'third party' doing the 'sample collection'. Not saying that all the producers will be cheating by submitting 'clean' material for testing - but we all know that 'desperate people will do desperate things' without much of a chance being caught.</p> <p>Changes that I would like made like in Rules is to:</p> <ol style="list-style-type: none"> 1. Lot size limits should be abandoned 2. All QC testing should focus on end packaged products i.e. cartridges, prerolls, edibles, tinctures, etc.. What good does it do to test at the Producer level when the product then goes through multiple other 'hands' before it reaches the ultimate consumer. Kinda like testing a cow for E Coli and not testing the 'ground beef'. 3. Have an LCB employee collect the Pesticide sample at the Producer level. Different production styles would have different testing frequencies. 4. In section (5) (b), in regards to what lots that can be transferred without required quality control testing, add 'or conversion to other intermediate or final products' <p>Thanks for the time to present these points.</p>
20	7/6/2020	Email	Tina Morelli	<p>Dear Cathy</p> <p>Hi my name is Tina morelli . I am the owner of morelli enterprises a tier 1 producer processor . I have a few separate issues . The lot testing size can only be in 5 lb lots so it's costing me 120\$ per 5 lbs as the smallest their size their is I don't and haven't mDe any profit ever since I have started. Between the testing , failed lots and the test per ever 5 lbs makes it almost completely impossible for me to ever profit . I do believe strongly in the testing but the lot size needs change . The very few testing companies there are half the time I feel like farmers are paying a side person to pass there products I find it odd that when I go into a rec store their is stuff testing over 40-50 % . I came from the medical side if this I owned and operated a medical lounge before I switched to recreational. Mind you no one in 4 yrs ever came in to our shop to make sure the law was being followed and we we're buying products from strangers in the streets . I feel like this whole system is broken and the only people that are making money are the cheaters that are selling on the black market . I follow the law by the book and everyone (other farmers say u follow it so much it's actually hurting you) that hurts my heart to hear .</p>
21	7/7/2020	Email	Shawn DeNae	<p>Good morning,</p> <p>I am sharing the attached report incase you all have yet to see these recommendations. #5 & #11 are particular sections that addresses my concern on implementing the testing based upon lots vs by batch & final product level testing.</p> <p>A quote from section #11:</p> <p><i>"Legal cannabis businesses across the country are still competing with black market actors who are not subject to mandatory testing requirements or any other compliance costs. Therefore, "over-testing" is not just a harmless policy that only impacts an owner's bottom line; it actually damages public safety by shifting resources away from compliance initiatives that protect public safety and increasing the competitiveness of black market actors."</i></p>

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				<p>Thank you for taking the time to review these recommendations and add them to the inputs received.</p>  <p>NCIA-Policy-Council -Testing-Policy-Repc</p>
22	7/7/2020	Email	Nick Mosely	<p>Dear Kathy Hoffman et al.,</p> <p>Please see attached public comment regarding CR-102 Filed as WSR 20-12-026 on May 27, 2020 (Quality Control Testing and Products Requirements).</p> <p>I would appreciate an acknowledgement of receipt of this email and corresponding attachment.</p>

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TO: Kathy Hoffman, WSLCB Rule Coordinator
1025 Union Avenue SE
Olympia, WA 98504

2020-07-07

CC: Russell Hauge, WSLCB BOD Member; Jane Rushford, WSLCB BOD Member; Ollie Garrett, WSLCB BOD Member; Rick Garza, WSLCB Director; Kendra Hodgson, Cannabis Examiner Manager; Dustin Dickson, Executive Assistant

RE: CR-102 Filed as WSR 20-12-026 on May 27, 2020 (Quality Control Testing and Products Requirements)

VIA: Email

Dear Kathy Hoffman et. al.,

As the operator of an independent and certified testing laboratory under the scope of the Washington Recreational Cannabis industry, I write this letter concerning the currently proposed Quality Control rule revisions pursuant to the public hearing scheduled for tomorrow, July 8th, 2020.

Confidence Analytics is certified in good standing with the WSLCB for all testing regimens currently required under rule. Additionally, Confidence Analytics is certified for the optional tests "terpenes" and "pesticides." Furthermore, Confidence Analytics is voluntarily accredited by the internationally recognized American Association for Laboratory Accreditation (a2la) a member of the International Laboratory Accreditation Cooperation (ilac) under the International Standards Organization (ISO) 17025 quality management system. Our laboratory maintains these additional accreditations voluntarily and at our own expense for all testing performed in our laboratory as a demonstration of our continued commitment to good, honest science in support of the Washington cannabis industry.

For your consideration, Confidence Analytics has in-house capabilities for heavy metals testing. In our May 2020 audit by the RJLee group, the instrument we use for heavy metals analysis (ICP-MS) was observed in its operational configuration by the audit team. Our lab will be submitting validation reports to RJLee in the next 3 weeks to complete the addition of this test to our scope. We will be ready for heavy metals testing before September of 2020, more than a year in advance of the proposed testing requirements for this assay.

Attached you will find a photo of our ICP-MS. We additionally have in-house three LC-MS/MS instruments, which are used for pesticide testing. I mention this in my effort to assure you that the capacity needed to carry out the proposed rules is already deployed and ready in waiting.

With kind regards,



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



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Figure 1. Inductively Coupled Plasma Mass Spectrometer (ICP-MS) from Shimadzu Scientific. Picture taken at Confidence Analytics in Redmond Washington on July 6th, 2020. The unit can test up to 20 samples per hour for heavy metals analysis. This unit alone has enough capacity to test over 10,000 samples per month, giving it plenty of capacity to meet future demand. Confidence Analytics will be submitting a validation report to the RJLee Group in the coming weeks.

[END]

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23	7/7/2020	Email	Cari Thompson	<p>Kathleen, I am a buyer for an extract company, which means I buy wholesale flower and trim from growers, which we extract at our facility. We voluntarily test all our products before they get packaged and sent to retail stores. Sometimes our concentrates fail for pesticides, particularly for Piperonyl Butoxide, which isn't even a pesticide, but rather an additive in pesticides. The action level for concentrates for PB is 2.0 ppm. After a few failures of our concentrates, we decided to start testing the trim before using it and we are finding PB, usually in small amounts, but some higher amounts, and it is in everything we purchase.</p> <p>My question is: Why is there no action level for PB (or other pesticides) for flower and trim but there is an extremely low action level for concentrates? In my opinion, this makes no sense and is in fact backwards. This puts all the burden on the extract company to pay for testing and all the risk of buying product that "passed" as flower (due to no action level) yet fails as concentrate, which leaves us with money and time wasted and product we can't sell. The growers can use as much pesticide as they want (as long as it's on the approved list) with no repercussions and no accountability. There needs to be a low action level for flower. It would need to be less than 0.2ppm because when we concentrate, the pesticide also becomes concentrated. The rule of thumb according to Confidence Analytics is pesticides in flower will multiply by 10 in concentrate.</p> <p>I have attached a couple of test results for reference. Looking at the Piperonyl Butoxide, you'll see in the EHO results that we failed by 0.3ppm, yet the results for the flower results show 4.5ppm. This grower is allowed to sell his pesticide-laden flower for consumers to smoke, yet our concentrate is deemed unsafe. How does this even make sense?</p> <p>The fact that there is no action level for pesticide in flower and trim makes it nearly impossible for us to find product that is clean enough to produce extract that will pass the PB action level of 2.0ppm.</p> <p>If we truly want to get pesticides out of cannabis and protect the consumer, it needs to start at the grow. These farms need to be held accountable. They should be the ones paying for the pesticide testing. They are the only ones who can control what is used during the growing cycle. They should be required to provide a clean pesticide test for every lot they sell, and if their flower produces failed extract, there needs to be repercussions in the form of a refund to the extract company that purchased it. Maybe the added costs will finally force them to stop using pesticides.</p> <p>Thank you for taking the time to read this. I sincerely hope my comments and questions make it to whomever decides these things.</p>
24	7/7/2020	Email	Colin Lukey	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p>

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				<ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
25	7/7/2020	Email	Jian Malihi	<p>Hi Kathy,</p> <p>I just wanted to take this chance before the WSLCB meeting to reiterate some problems that I see with the current proposed rules:</p> <ul style="list-style-type: none"> -The biggest problem I see is that the WSLCB is not required to contract their testing through certified i502 labs. Currently they are conducting their testing through the WSDA. This will inevitably create situations with conflicting test results and will make it impossible for producers to be certain that the material they sell meets grade. It will also be a nightmare for LCB investigations as WSDA samples take months to process whereas i502 labs can turn samples around in 2-3 days. -It seems that the heavy metals testing requirement is wasteful and unnecessary as heavy metals have not been shown to be a problem in raw cannabis material. Instead the heavy metals issue is basically solely caused by vape hardware. -The 5 pound lot size still seems arbitrary and with the cost of new tests increasing the overall testing costs for farmers it would seem fair that the lot size should also increase to at least 15 pounds. <p>I would also like to note that we pretty much endorse the position offered by the WSIA on this issue. Unfortunately these rules are not ready and will only make the problems they wish to cure worse overall.</p> <p>Thanks a lot and please let me know if you would like any clarification on my comments.</p>
26	7/7/2020	Email	Azmyth Kaminski	<p>Dear Kathy et al.</p> <p>Quick note: Given that the hemp industry is still developing & seeking a consistent floor. Any increase in cost to produce & verify adds lost profitability based on the unknown and consistently fluctuating market pricing.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislature's intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p>

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27	7/7/2020	Email	Benjamin Schuster	<p>Dear Kathy et al.</p> <p>First, I acknowledge that the points below are likely consistent with many other comments you have received. I write separately to make it clear that they apply directly to my business Cascade Gnome, as much as all the other comments received.</p> <p>As an Owner/Operator, the financial burden of these proposed requirements is clear, abundant and be practically unmanageable. As noted below, I share serious concerns about consistency between labs as well as internal consistency. It's supposed to be science, after all.</p> <p>I support regulation, I support testing, but it needs to be economically feasible AND a worthwhile endeavor, thus I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing. <p>Should you have questions, concerns or further clarification, please feel free to contact me at this email address or at the phone number below.</p>
28	7/7/2020	Email	Jeff Wilhoit	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for</p>

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				<p>Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislature's intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
29	7/7/2020	Email	Cyrena Stefano	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
30	7/7/2020	Email	Samuel Kannall	<p>Dear Kathy,</p> <p>My name is Samuel Kannall. I am the owner of Bodhi High Brands a small processing company.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards. A few changes that should be made include: -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid &</p>

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				microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing. Thank you,
31	7/7/2020	Email	Monica Martinez	<p>Dear Kathy et al. I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards. A few changes that should be made include: -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing. Thank you,</p>
32	7/7/2020	Email	Troy Rushforth	<p>I am writing in concern on the proposed WSR 20-12-026. I STRONGLY urge you to NOT to adopt the new QC rules.</p> <p>This is yet another obstacle the State is trying to pass to further hurt our industry as a whole. We are a small farm that has barely survived the last pricing plunge. We are trying to make a living in an industry that is already hit with state taxes, and the inability to write off basic expenses at the Federal level. It seems as though every year, the State tries to come up with new ways to make money off of, or create new unnecessary costs, to an industry that is already hit harder than any other type business in the way of operating costs.</p> <p>Enough is enough. You need to realize we don't have the means to afford such increases in production costs. This is just going to put more struggling small companies out of business, and people out of work, at a desperate time in society with all the problems that we are currently faced with. These decisions are not being thought through by the WSLCB. You need to focus on things that will help our industry, not things that will effectively put us out of business. If you force us to fail at the farming level, that will only have a domino effect on all levels.</p> <p>Changes simply need to made to the help us, not hurt us. Lot size limits should be ended. It is added costs that make no sense, that no other industry has to endure. Test by the individual strain, not by the pound. You need to consider Producers to be able to sell locally at their own farms, exactly how you have set up the Microbreweries and Distilleries with Tap Rooms. Pesticide testing can be done at the farm level to cut costs, and can be supplied to buyers. Microbial testing needs to be done at the harvest level, as well as heavy metals need to be turned towards the end product device sector.</p> <p>I sincerely hope you listen to the farmers. Passing this proposal will have yet another HUGE negative impact on us that we cannot handle at this point.</p>
33	7/7/2020	Email	Anders Taylor	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p>


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				<p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. Furthermore, the rules as proposed ignore the history of environmental lead contamination. For decades, the United States used leaded gasoline in vehicles and lead arsenic as a pesticide on orchards throughout Washington State. A majority of the state's agricultural land has been contaminated by these practices. Many small organic farms do everything possible to remediate the soil, but given the historical use as conventional orchards, it can be challenging to meet the arbitrarily low limits being proposed by the WSLCB.</p> <p>I would strongly urge the WSLCB to consider safe standards that are set by other industries as they relate to lead contamination and acceptable levels. Further, heavy metal testing should focus on the vape cartridge hardware and end product testing.</p> <p>Additionally, I would encourage the WSLCB to stop making rule changes to lab testing without solving the chain of custody issues that STILL – 6 years after inception – plague our industry's lab practices. It's absolutely criminal that you haven't fixed this problem still. It's not that hard. Make tests random and require labs to come take samples from producers. It's the only way to ensure accurate results. As it currently stands, bad actors thrive by cheating.</p>
34	7/7/2020	Email	ALPHABUDZ LLC	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
35	7/7/2020	Email	Rian Takahashi	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for</p>


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				<p>Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
36	7/7/2020	Email	Jeremy Moberg	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
37	7/8/2020 (3:36AM)	Email	Mark Ambler	<div style="text-align: center;">  <p>WSR_20-12-026 Breeze Trees Comme</p> </div>
38	7/8/2020	Email	Laurel Friesen	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue.</p> <p>It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to</p>

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				<p>ignore the legislature's intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> - Arbitrary lot size limits should be abandoned. - Pesticide testing should be done at the farm level and randomly sampled by the LCB from end products on retail shelves. - Cannabinoid & microbial testing should be done at the strain-harvest level. - Heavy metal testing should focus on vape cartridge hardware and end product testing.
39	7/8/2020	Email	Clayton Sperry	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026. Given the significant financial impact these rules present as outlined in the SBEIS it is clear that the WSLCB needs to explore other approaches to testing that will allow small businesses such as mine to continue. It is concerning that the WSLCB is considering rule making that will significantly increase the amount of money producers and processors spend with Washington's labs when the lack of confidence in the consistency and reliability of labs required the legislature to pass HB2052 in 2019 directing the WSDOE to put in place a standardization and accreditation program for Washington's labs. This standardization and accreditation program has not yet been implemented thus issues with the reliability and consistency with lab results persist. While the issue of accreditation is not considered in this rule making it is impossible to ignore the legislatures intent to address this issue and how it intersects with quality assurance sampling protocols and enhanced testing requirements and standards.</p> <p>It seems like every time we get to a point where we understand the rules... you change them!</p> <p>A few changes that should be made include:</p> <ul style="list-style-type: none"> -Arbitrary lot size limits should be abandoned. -Pesticide testing should be done at the farm level. -Cannabinoid & microbial testing should be done at the strain-harvest level. -Heavy metal testing should focus on vape cartridge hardware and end product testing.
40	7/8/2020	Email	Crystal Oliver/WSIA	 <p>WSIA2020QCCommentsFinal.pdf</p>
41	7/8/2020	Email	Kevin Oliver	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>Representing the world's oldest and largest marijuana consumer lobby, the National Organization for the Reform of Marijuana Laws (NORML), headquartered in Washington DC for 50 years with thousands of WA state residents as members, it is worth noting that these arbitrary rules are not grounded in scientific data regarding consumer safety.</p> <p>Washington state could set a precedent for consumer safety by committing to research that determines what, if any, pesticides and other contaminants are present in the marijuana consumed by adults. (i.e. evidence to suggest they survive the heating process as flower is consumed) and further, what actual danger - if any - exists to the consumer from said contaminants.</p> <p>Strictly speaking, the rules regarding pesticides presented in WA and other legal states, do nothing to determine actual thresholds of danger to consumers. Rather, they are set arbitrarily to the whims of unregulated for-profit labs.</p>


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				Before arbitrarily taxing industry participants, please consider rules based on epidemiological and forensic evidence that would set precedent through science in determining what if any dangers exist in consumer products. To date, there is zero evidence showing an increase in pathology arising from products obtained in legal marijuana markets.
42	7/8/2020	Email	Kelsey Taylor	<p>Dear Kathy et al.</p> <p>I am writing to request that the WSLCB NOT adopt the QC Rules proposed in WSR 20-12-026.</p> <p>These rules will cause significant impact to small businesses such as mine, and very well may put me out of business. I own a small organic cannabis farm on former orchard land. As you may know, orchards have a long history in Washington State of having lead-arsenic used as a pesticide. Much of the state's agricultural land has been contaminated by years of agricultural practices that used chemicals we now know can be dangerous.</p> <p>I am doing everything that I can to remediate the soil on my land, but it will take time. The timeline here is simply far too short and the limits arbitrarily low - a March 2021 compliance date for these levels means the plants I already have in the ground will need to meet these heavy metals thresholds. I am concerned that this will put me out of business. Yet another woman-owned business will bite the dust due to arbitrary WSLCB rules that favor the powerful and wealthy.</p> <p>We live in a world of environmental contamination, so it is important that we take a measured and science-based approach here. I strongly urge the WSLCB to consider safe standards that are set by other industries as they relate to lead contamination. Furthermore, heavy metal testing should focus on the vape cartridge hardware and end product testing. Lead can leach from the metals hardware over time and with heat, so it is critical that you consult experts in the field in order to protect consumers more effectively.</p> <p>And finally, the WSLCB should fix the fundamental issue of lab testing before they continue to add on testing to an already broken system. The chain of custody issues that plague the industry's lab practices completely undermine public safety, and the fact that they haven't been fixed in nearly six years is galling. They allow bad actors to thrive, while making it even harder to succeed for those of us who have the integrity not to cheat.</p> <p>Fix the chain of custody issues and do more research on action levels before tacking on more testing. These poorly written rules will only bankrupt women and minority-owned businesses, without even the benefit of improving public safety.</p>
43	7/8/2020	Email	Chris Marr	<p>Chair Rushford and Board Members,</p> <p>Thank you for the opportunity to comment on the proposed Quality Assurance rules. First, thanks to Kathy Hoffman and her Policy & Rules team, and the many stakeholders who committed so many hours to this rulemaking process.</p> <p>I support the breadth of the proposed testing requirements as well as the phase-in of new pesticide and heavy metal testing. While it may be necessary to slightly shift phase-in dates to accommodate for rulemaking delays, I ask that you oppose efforts to significantly delay their implementation. This industry has operated too long without robust product safety testing and we cannot afford to put at risk the health of consumers, who choose to buy from the regulated market because of the reassurance of oversight.</p> <p>My major concern is the decision to maintain the current 5-lb. lot size requirement, which will have huge cost impacts on the industry with no tangible public safety benefit. In fact, maintaining 5-lb. lots will only further the price disparity between the regulated and illicit markets, creating greater risks to public safety.</p> <p>According to the SBEIS, based on higher testing costs per sample, producers will see costs ranging from \$12,000 to \$832,000 based on full implementation of new testing standards. Those costs will be magnified as markup is taken throughout the supply chain and as excise, sales and other taxes are applied at the point of sale. That means the costs at the cash register could be two or three times that.</p>

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				<p>The SBEIS states “...it is assumed that these costs <u>will not</u> be passed on to retailers or consumers at this time...If producer/processors are able to pass on the costs of testing, then the impacts would more likely be borne by consumers.” We know that current margins experienced by producers and processors provide no basis for an assumption that additional testing costs will be absorbed by licensee.</p> <p>We’ve been told that lot sizes were not increased because there was “no consensus” among stakeholders during the rule development process. I would suggest that it is because testing labs were over-represented in the process and they see mitigating costs through lot size as a threat to their revenue stream. I can appreciate that. However, I think the interests of licensees and consumers should come first.</p> <p>Washington is an outlier, in both lack of product testing and lot-size. Oregon allows up to 15 lb. batches. California allows batches up to 50 lbs. and requires a minimum of .35% of each batch be tested. Colorado also increases sampling based on lot size: 10-20 lbs. requires 12 half gram samples, over 100 lbs. requires 29 half gram samples. You may hear from some labs that larger sizes limit accuracy. However, as other states have found, that can be addressed through appropriate testing protocols and increased sample quantities.</p> <p>Increased testing is vital, as is mitigating costs and our ability to compete with the illegal market. We can accomplish both by increasing lot sizes.</p> <p>Thank you for your consideration.</p>
44.	7/8/2020	Email	Joanna Monroe (Craft Cannabis Coalition)	 <p>7-7-20 - UPDATED Letter to LCB.pdf</p>

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DATE: July 6th, 2020

TO: Kathy Hoffman, WSLCB Rule Coordinator

CC: Bryan McConaughy, WSIA Lobbyist; Russell Hauge, WSLCB BOD Member; Jane Rushford, WSLCB BOD Member; Ollie Garrett, WSLCB BOD Member, Rick Garza, WSLCB Director

FROM: Washington Sun Growers Industry Association (WSIA)

RE: CR-102 WSR 20-12-026 Quality Control Testing and Product Requirements

Kathy et al,

Thank you for your continued dedication to collaborative rulemaking.

WSIA's mission is to support sustainably farmed sungrown cannabis by encouraging positive environmental and economic policy through advocacy, education, and research.

We represent 50 businesses who hold more than 90 WSLCB marijuana licenses. Most of our members are licensed marijuana producers and processors.

During the pre-proposal stage of this rulemaking WSIA offered verbal comment and submitted a white paper titled "Cannabis Quality Assurance Testing". Over 80 producers and labs have signed on to this paper. This paper outlines our concerns with the current QC testing rules and proposals in this CR102 as well as concerns related to regulations that intersect with the rules being reconsidered here.

We remain extremely concerned that the WSLCB is considering the adoption of rules that will significantly increase farmer's spending with Washington's private labs prior to the Washington State Department of Ecology (WSDOE) accreditation program being implemented. This rule-making is premature given the general lack of confidence in the consistency and reliability of Washington's current lab results and methods. The legislature recognized this deficiency and addressed it by passing legislation directing the WSDOE to develop standardization and accreditation for labs (HB 2052). WSLCB should continue to fully utilize the expertise of the WSDA and leverage the existing interagency agreement #813 to continue pesticide testing at production facilities as well as end products at retail stores.

The industry has done a very good job of policing itself since the topic came to head in 2017; producer/processors are now doing an unprecedented amount of voluntary private pesticide testing due to demands for clean material and many of these tests results are available to stores and the public. There have been a number of industry efforts to raise awareness of pesticide free products including the OK Program, Clean Green Certified, Testing with Confidence and many individual stores and processors require testing of products before they purchase them. These programs have shown a very high level of compliance with WSLCB's very strict pesticide restrictions.

If the WSLCB decides to move forward with this rulemaking we are hopeful that the WSLCB will consider the following substantive changes to the proposed rules. We believe that requirements

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for testing pesticides and the current cannabinoid panel testing are very different. Testing for pesticides should occur at the farm level as currently being done as part of the WSLCB-WSDA interagency agreement #813. Cannabinoid testing, mycotoxin testing, and microbial testing should be conducted at the strain-harvest level. It is with this separation in mind that we recommend the following changes to WSR 20-12-026.

- **The WSLCB should adopt strain-harvest level testing for cannabinoid, mycotoxin, and microbial testing.** Multiple tests could then be performed on the strain-harvest population and cannabinoid results could be reported as a range. By replacing testing of an arbitrary lot size with strain-harvest level testing while increasing cannabinoid testing the LCB would insure that the data meant to represent the population would be statistically valid. In fact, the current testing based upon 5lb lot, or any arbitrary lot size, violates the basic statistical requirements to represent a population such as not being able to calculate variance, using a single sample to represent a population instead of a range, and is essentially not valid data. This is important because the consumer uses this data to regulate consumption and should be presented with variance and ranges of cannabinoids on the product to make proper consumption decisions, data that is best collected at the strain- harvest level.
- **Enterobacteria testing should be an indicator test, not a pass-fail test.** The Enterobacteria testing has no legitimate scientific basis for being a pass-fail test and unfairly disadvantages farmers who cultivate outdoors and in living soils where a variety of bacteria are naturally present. The enterobacteria test that is currently performed is not specific to pathogens. In fact, the current testing requirements for the pathogens E. Coli and Salmonella are not adequate to detect these harmful bacteria. We recommend that the LCB create a threshold for enterobacteria as an indicator test, and if a harvest tested above this threshold then a direct test for these pathogens will be required to be submitted with a sample large enough to detect the presence of this harmful pathogen.
- **Compulsory pesticide testing should focus on annual random sampling of useable marijuana and other material at the farm level like other agricultural testing methods** Pesticides application isn't limited to lots, it's generally applied to the entire area, field, or harvest. In fact, testing at the lot level will make it very easy for producers to use illegal pesticides in their mother rooms or for entire crops that they plan on remediating. The LCB should rely on the current WSDA pesticide program while the WSDOE is developing the standardization and accreditation program.
- **Heavy metal testing should focus on vape cartridge hardware as the most likely source of heavy metal contamination in concentrates.** The WSLCB should perform random end-product testing for heavy metals in vape cartridges and supply third party analysis of heavy metal testing results of their hardware as many manufactures currently do. As far as we know, there has not been a single sample of cannabis flower that has tested above the heavy metal testing requirements in the Dept. of Health testing program. Heavy metal testing should not be required for flower or usable marijuana without first assessing that there is flower testing above the current DOH thresholds for

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heavy metals. Heavy metal testing should be limited to concentrates and focus on hardware.

- **A section addressing unavoidable residual environmental contamination (UREC) defined as background levels of naturally occurring or synthetic chemicals that are present in the soil, air, or water needs to be added to the WAC.** A farmer should not be fined or penalized for environmental contamination. Pesticides are used all around us, in homes, gardens, schools, parks and agricultural fields. It is impractical to expect marijuana farmers to be able to avoid contamination when even organic food is permitted to have small traces of conventional pesticides.
- **The WSLCB should be required to utilize the same testing labs that licensees use.** The WSLCB's current reliance on the WSDA's lab which tests for more chemicals than the private labs has created a number of conflicts between licensees and the WSLCB. There should not be two separate testing systems that do not allow for validation of the results.
- **A section outlining the WSLCB's pesticide sampling protocol, investigation process and a licensee's rights to appeal and refute WSLCB's results needs to be added to the WAC.** Voluntary pesticide testing has resulted in many false positive results and many of the WSLCB's pesticide investigations have been triggered by accusations from competitors and disgruntled employees who have weaponized the complaint process. There is little transparency in this process despite the significant ramifications a positive result and pesticide violation have on a business. It should be clear to the WSLCB and stakeholders what steps and procedures will be used.

We are happy to serve as a resource and support the WSLCB.

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July 7, 2020

Ms. Katherine Hoffman
Rule Coordinator
WSCLB
1025 Union Ave SE
Olympia, WA 98501

Re: CR-102 WSR 20-12-026 Quality Control Testing and Product Requirements

Dear Kathy,

The Craft Cannabis Coalition supports testing for pesticides and heavy metals, and we seek regulations that balance public safety and quality assurance with financial impact.

While we understand that the implementation of 2019 HB2052 will bring standardizations to the industry through WSDOE accreditation, we see the pressure the LCB is under from the legislature and public to address the lack of pesticide and heavy metal testing in a shorter timeframe. We would like to acknowledge the LCBs continued work towards improved public safety. This effort has not gone unnoticed and industry stakeholders would like to continue to be a part of the dialogue around rulemaking.

The economic impact of such changes has been outlined in the SBEIS regarding QA Testing, and while the weight of the cost increase is said to fall on the consumer, that scenario is not guaranteed for all stakeholders. We believe that increasing the lot size from 5 to 10 pounds will reduce the financial burden of the proposed rulemaking, giving all industry stakeholders a greater chance of success under the new requirements.

The current language in the proposed rulemaking does not allow for the remediation of product that has failed the new testing standards. As industry stakeholders, we feel this prohibition has the potential to increase product diversion and greatly increase the financial burden of this ruleset on producers. To maintain a robust coalition of producers, we request the rulemaking be amended to allow for product that has failed QA testing to be remediated through extraction.

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In addition, we would like to thank the LCB for setting up a phased-in plan for this rule change. The phased-in plan will allow stakeholders to better weather this increased financial burden. Our lab community currently has only two labs that have the equipment and approval to test for pesticides and heavy metals. To reduce the impact of a testing bottleneck, we would like the LCB to consider extending the timeline for implementation of the new standards to allow the market to balance out between phases and to allow for testing labs and producer/processors to further prepare for and accommodate the increase in wait time for final test results.

Rule Change	Current Timeline	Proposed Timeline
WAC 314-55-102	2/28/21-3/3/21	4/1/21-6/30/21
WAC 314-55-1021 (Pesticide testing required)	3/4/21-9/3/21	7/1/21-12/31/21
WAC 314-55-1022 (Pesticide & HM testing required)	9/4/21 and on	1/1/22 and on

We commend the LCB rules coordinating team for helping ensure that Washington cannabis stays safe for consumers. As an industry, we understand the value of a positive collaborative working relationship and we appreciate our regulators who consider stakeholder input when writing and rewriting rules. In conclusion, we would like lot size to be increased to 10 lbs., we would like the allowance of remediation for failed product and we would like the adoption timeline to be expanded. We feel the scope of these requested changes necessitate a supplemental CR-102 to this ruleset to further facilitate collaboration between the industry and our regulators, and to adequately balance the requested changes with the intent of the ruleset.

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Breeze Trees, LLC
4839 Meridian St.
Bellingham, WA 98226
July 8, 2020

Katherine Hoffman
Policy and Rules Manager
Washington State Liquor and Cannabis Board
1025 Union Avenue
Olympia, WA 98501
katherine.hoffman@lcb.wa.gov
rules@lcb.wa.gov

Subject: Comments on WSR 20-12-026 - Proposed Rules - Liquor and Cannabis Board

Thank you for the opportunity to provide these comments in regards to WSR 20-12-026. Breeze Trees, LLC is a Tier 1 Producer/Processor in Bellingham, Washington. The page number references are specific to the WSLCB weblink¹ document.

General Comment:

The economic analysis conducted for this proposed rule change makes no mention of the Covid-19 pandemic. There is additional economic pressure on small producer/processors because of Covid-19 that hasn't been accounted for. We agree that cannabis sampling rules should be revised in Washington, but this proposal has a few design flaws that make it a liability. We present some of the important issues below and are OPPOSED to the proposed rule changes as written.

Comment 1 (page 4):

In the section titled, "**Regulatory Act Cost Considerations for a Small Business Economic Impact Statement:**" the last box is checked which states, "**This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4)(d): WAC 314-55-101; WAC 314-55-1025.**"

RCW 19.85.025(4)(d) does not exist.

Comment 2 (page 4):

In the Table titled, "**The NAICS code, business description, and minor cost thresholds are described and calculated below:**" note #1 references that the 341 marijuana producer/processors in the table represent those that reported revenue, lab tests, and employment between 2018-05 and 2019-04. Note #2 states that all of the certified cannabis labs were included.

We are a WSLCB licensed producer/processor. Although we utilized our full licensed canopy in 2018, our harvest was destroyed by russet mites and so we had zero revenue between 2018-05 and 2019-04.

Why didn't WSLCB include farmers like us who lost their crop in 2018 in their analysis of the Regulatory Fairness Act?

Comment 3 (page 4):

Our farm doesn't have enough revenue to support hiring employees. Why didn't WSLCB include farmers who can't afford employees in their analysis of the Regulatory Fairness Act?

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Comment 4 (page 4):

For the question, “Does the rule have a disproportionate impact on small businesses?” WSLCB answered as follows:

“In particular, in order to calculate annual costs, we require information on a per entity basis describing the number of samples being tested per year. While we have some limited anecdotal information on the numbers of samples tested per year by individual producer/processors, we lack information on the myriad business models that could lead to a wide range in the number of samples tested per year, and thus a wide range of per entity compliance costs per year. Developing reliable estimates would require a comprehensive survey with a reasonable response rate, and even then, given the wide variability of business models and documented inconsistency in responses from licensees, per entity costs is [are] difficult to determine.”

As a producer/processor, we can log into the Leaf traceability system and view all of the samples we’ve conducted since being licensed.

Why didn’t WSLCB use Leaf data to determine the number of samples tested per year?

Comment 5 (page 4):

Before we were allowed to start growing cannabis, we were required to document with WSLCB our business model and prove that we had sufficient cash to execute that model. We were required to fill out WSLCB form “LIQ1227” which states at the top of page 1,

“Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for is required as part of the application process listed in Washington Administrative Code (WAC) 314-55-020. This operating plan must include a floor plan and/or site plan which illustrates the entire operation being proposed. (WAC 314.55.020(11))”

WSLCB claims, “...we lack information on the myriad business models...” when responses from form LIQ1227 “illustrate the entire operation” of each licensee.

Comment 6:

WSLCB states,

“The proposed rule changes include provisions that are intended to reduce the compliance costs for small businesses. These include: · An incremental phase in period that contemplates full compliance by March, 2021...”

How much does the proposed “incremental phase-in period” reduce the compliance costs for small businesses? We don’t anticipate any reduction in compliance costs due to incremental phase-in.

Comment 7 (page 5):

WSLCB states,

“It is difficult to accurately assess if small business will be disproportionately impacted by this rule proposal when there is both significant overlap and variance between the groups evaluated.”

Why did WSLCB include in its Regulatory Fairness Act compliance an assessment of the labs which are the economic beneficiary of the rule change? Is WSLCB using increased revenue to 14 labs to justify the impact to 1,441² licensed producers and/or processors?

² WSLCB Annual Report, 2018

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Comment 8:

Out of 1,441 licensed producers and/or processors, why were only 6 contacted in development of the SBEIS and how were they selected?

Comment 9 (page 5):

Under the heading “Will businesses have to hire or fire employees because of the requirements of the rule?” WSLCB states,

“While the impacts to individual producer processors may depend on their ability to pass on increased testing costs (in the form of higher prices to retailers), the proposed rule is not expected to affect the amount of marijuana produced. Thus, the proposed rule is unlikely to affect the overall number of employees of producer/processors or retailers. For example, if increased testing costs lead some smaller entities to cease production, other entities may produce larger volumes. While it would be an indirect effect, the proposed rule may result in some limited additional employment in the labs conducting testing.”

Consumer demand has driven the THC% up and the price down for cannabis in Washington State. Increased i502 retail prices due to this proposed testing would drive more consumers back to the black market and decrease i502 spending. Less volume would lead to layoffs. We believe WSLCB's statement that the overall producers and/or processors and retailer employee count will remain stable is incorrect especially with the Covid-19 pandemic.

Comment 10 (OTS-1932.2, page 2):

The subsample collection procedure proposed in this rule change only requires 4 nugs per lot. A 5 lbs. lot has thousands of nugs. For this example, we assume the lot has 2,000 nugs and that 500 of them are contaminated. The odds of selecting 4 clean nugs are as follows:

$$(1,500/2,000) \times (1,499/1,999) \times (1,498/1,998) \times (1,497/1,997) = 31.6\%$$

This example shows that 31.6% of the time, there would be 500 contaminated nugs that would be labeled clean by the proposed subsample collection procedure.

In another example, a 5 lbs. lot with 2,000 nugs has 200 that are contaminated. The odds of selecting 4 clean nugs are as follows:

$$(1,800/2,000) \times (1,799/1,999) \times (1,798/1,998) \times (1,797/1,997) = 65.6\%$$

This example shows that 65.6% of the time, there would be 200 contaminated nugs that would be labeled clean by the proposed subsample collection procedure.

In a final example, showing our recommendation, a 50 lbs. lot with 20,000 nugs has 2,000 that are contaminated. The odds of selecting 50 clean nugs is:

$$(18,000/20,000) \times (17,999/19,999) \times (17,998/19,998) \times (17,997/19,997) \times \dots \times \dots = 0.5\%$$

Attachment C

Marijuana Quality Control Rule Proposal – Public Comment Received Through 7/8/2020

This example shows that 0.5% of the time, there would be 2,000 contaminated nugs that would be labeled clean in a 50 lbs. lot with 50 subsamples.

The 50 lbs. lot with a 50 subsample approach catches a 10% contamination rate 131.2 times better than the proposed rule revision's 5 lb., 4 nug approach. The size of the lot doesn't determine the accuracy of the sample. The amount of subsamples you take does.

Comment 11 (OTS-1932.2, page 5):

The proposed rules continue to allow up to 2 ppm of benzene in dabs and vapes and reference United States Pharmacopoeia, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>). However, USP <467> explicitly warns,

"Solvents that are known to cause unacceptable toxicities (Class 1, Table 1) should be avoided in the production of drug substances, excipients, or drug products unless their use can be strongly justified in a risk-benefit assessment."

Benzene is the most toxic chemical in USP <467> Class 1, Table 1. WSLCB does not explicitly require by rule a risk-benefit assessment for using benzene in extractions. Dabs and vapes don't use chemical combustion (which could destroy the residual benzene). Rather, they volatilize the benzene into a gas which is delivered to the lungs. Benzene causes cancer. Ecology sets their limit for benzene at 0.03 ppm.

We recommend that the WSLCB take immediate, emergency action to address this issue.