



Washington State
Liquor and Cannabis Board

Overview of the WSLCB Rule Development Process

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Today's Presentation

- WSLCB rule development process, including:
 - **What does the WSLCB do?**
 - **Rule development process**
 - From concept to completion
 - **How to get involved**
 - **Statutory and regulatory authority**
 - **The most effective ways to provide input and comment**
 - **Current Rule Projects and Future Rule Projects**



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Who is WSLCB and what does WSLCB do?

- Three-person Board
- License liquor, cannabis, vapor and tobacco product production, processing and product sale.



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Rule Development Process



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Basic Rule Making Process

The standard rule making process is described in chapter 34.05 RCW, the Administrative Procedures Act, and divided into three stages:

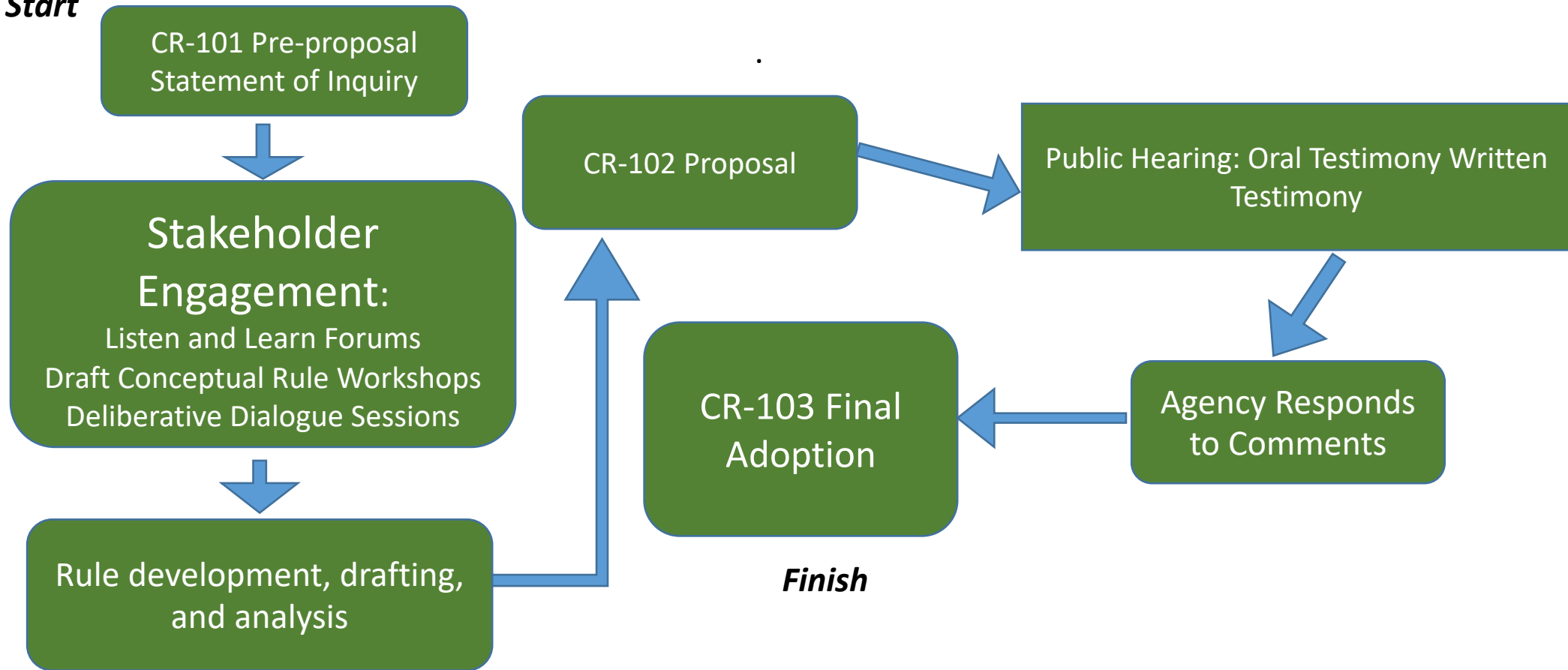
- Stage 1: Pre-proposal Statement of Inquiry (CR-101) – RCW 34.05.310
- Stage 2: Proposed Rule Making (CR-102) - RCW 34.05.320
- State 3: Rule-making Order (CR-103) - RCW 34.05.360

Each stage consists of specific tasks and processes.



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Start





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Standard Rule Making – Stage 1

Pre-Proposal Statement of Inquiry (CR-101) – RCW 34.05.310

Purpose: Describes the issue(s) being considered for rule development

- The CR-101 identifies the purpose and scope of rulemaking.
- The scope of the rules created through this process is controlled by statutory authority and must be compatible with existing requirements.
- Most rule development occurs after the CR-101 is filed.
- The agency collaborates with stakeholders to develop rules. *This is considered an informal process.*
 - Includes Listen & Learn sessions, rules workshops, and other forms of inclusive stakeholder engagement.
- **The agency begins internal development of required analysis as described in chapter 34.05 RCW, the Administrative Procedures Act, and chapter 19.85 RCW, the Regulatory Fairness Act .**



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Standard Rule Making – Stage 2

Proposed Rule Making (CR-102) – RCW 34.05.320

Purpose: Describes the rule proposal and impact analysis.

- The agency drafts a *proposed* rulemaking order consistent with the requirements of RCW 34.05.320.
- Once the CR-102 is filed, a formal review period and comment process begins.
- The CR-102 provides information regarding the date, time, and location of the public hearing, how formal comment may be made before the hearing, and other details.
- At the public hearing, the public may provide written comment, oral testimony, or both.



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Standard Rule Making – Stage 3

Rule Making Order (CR-103P) – RCW 34.05.360

Purpose: Final rule adoption

- After the public hearing and review period, the agency compiles all comments received, and makes a decision whether the proposed rules should be changed or adopted as proposed.
- If the agency makes substantive changes, a supplemental CR-102 must be filed (see RCW 34.05.340), and a second public hearing held. This substantially extends timelines.
- If the agency adopts the rule as proposed, the agency files the rulemaking order, or CR-103P, and the rules typically become effective 31 days later.
- All comments and the agency's responses are compiled into a Concise Explanatory Statement, and provided to all commenters and the public shortly after the adopted rules are filed.
- The Board is the final decision maker for all WSLCB rules.



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How to Get Involved

- **Subscribe to WSLCB GovDelivery messages:**
<https://public.govdelivery.com/accounts/WALCB/subscriber/new>
- **Participate in Listen and Learn and other WSLCB hosted rule development forums**
- **Contact Sara Cooley Broschart, WSLCB Public Health Liaison:** sara.broschart@lcb.wa.gov
- **Follow Board meetings and Board caucus sessions:**
https://lcb.wa.gov/boardmeetings/board_meetings



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Statutory vs. Regulatory Authority



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What is a statute?

- A statute is a law passed by a legislative body, like the Washington State Legislature. *Boards and Commissions are not legislative bodies that create or develop statute.*

Example: RCW [69.50.357](#)

Retail outlets—Rules.

- (5) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana account created under RCW [69.50.530](#).



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What is a rule (or regulation)?

- A directive made and maintained by an authority that interprets or implements a statute, establishes a program, standards or criteria.

Example: WAC 314-55-086

Mandatory signage.

(1) All licensed marijuana processors, producers, and retailers, with the exception of licensed retailers with a medical marijuana endorsement, must conspicuously post a notice provided by the board about persons under twenty-one years of age at each entry to all licensed premises. The notice must contain all of the following language: "Persons under twenty-one years of age not permitted on these premises."



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What Can the WSLCB Put in Rule?

- **Guidelines regarding product production, processing, and retail sale for liquor, cannabis, tobacco and vapor products.**
 - *WSLCB does not have the statutory authority to regulate consumer behavior or product consumption once the product leaves the retail establishment.*
- **Penalties and fees where expressly mandated by statute.**
 - *When penalties and fees are established in statute, WSLCB cannot increase, decrease, or modify those penalties and fees.*



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What Makes a Great Comment?

- **Substantive:** A substantive comment identifies an issue you have with the language, says why it's a problem, and offers other factual, unbiased, verifiable information for WSLCB to consider.

Qualities of a substantive comment:

- References document pages, chapters or sections and *uses objective information*.
- **Uses verifiable facts** to question the adequacy, accuracy, methodology, or assumptions of the analysis.
- Proposes **a reasonable new alternative or revision** to the alternatives presented.
- Identifies a passage in the document that is unclear.

Things that *do not* qualify a comment as substantive:

- Offering only anecdotal stories or research “suggesting” an outcome or relationship.
- Crafting an emotionally compelling story without facts.
- Stating only that you agree or disagree with a policy, resource decision, analysis finding or presented alternative.
- Asking vague or open-ended questions.
- Commenting on **unrelated projects or rules**.



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What Makes a Great Comment?

Example of a Helpful Substantive Comment:

I disagree with closing Route 245A in Alternative E. I need the road to access my private land.

Example of an Unhelpful Comment :

Stop closing our roads.



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Actual WSLCB Examples Unhelpful

WAC 314-55-525 Category VI.

Statutory penalty violations.

Allowing a minor to frequent a retail store. RCW 69.50.357 (2)	\$1,000 monetary fine
Allowing persons under twenty-one years of age to frequent a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine
Employee under legal age. RCW 69.50.357 (2)	\$1,000 monetary fine
Opening or consuming marijuana on a licensed retail premises, or both. RCW 69.50.357 (4)	\$1,000 monetary fine
Retail outlet selling unauthorized products. RCW 69.50.357 (1)(a)	\$1,000 monetary fine

- Actual comment received (paraphrased): Asked WSLCB to substantially increase penalties, including license cancellation based on commentors assertion that no minors should be near or allowed in I-502 stores.
- The reality: As noted in the table, this is a statutorily established fine with no licensee cancellation option. Since I-502 stores are age-gated, there is a high compliance rate, and this violation occurs less often than others.



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Actual WSLCB Examples

Helpful

WAC 314-55-105: Marijuana Product Packaging and Labeling:

4) **Marijuana edibles in liquid form.** The following standards apply to all packaging and labeling of marijuana edibles in liquid form:

(a) Containers or packaging containing marijuana edibles in liquid form must protect the product from contamination. Containers or packaging must not impart any toxic or harmful substance to the marijuana edibles in liquid form.

(b) Marijuana edibles in liquid form must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(iii) **Marijuana edibles in liquid form that include more than one serving must be packaged with a resealable closure or cap. Marijuana edibles in liquid form must include a measuring device such as a measuring cup or dropper. Hash marks on the bottle or package qualify as a measuring device.**

- Actual comments received (paraphrased): Original conceptual draft rule removed measuring device. Comments from public health and prevention, based on actual, verifiable data urged WSLCB and industry to reconsider and add measuring cup or device back into rule along with hashmarks on bottles.
- The reality: All parties interested in assuring products are safely packaged when leaving retail facility. Option offered processors options that supported compliance.



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Current and Future Rule Projects

- **Current**
 - Cannabis vapor products
 - Cannabis product testing
 - Cannabis Tier 1 expansion
 - Cannabis legislative implementation
 - Liquor legislative implementation
- **Future**
 - COVID-19 temporary allowances
 - 2021 Legislative implementation
 - Cannabis advertising rules
 - Liquor rule remodel



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Resources

- WSLCB frequently requested lists: <https://lcb.wa.gov/records/frequently-requested-lists>
- WSLCB data portal (general cannabis information): <https://data.lcb.wa.gov>
- WSLCB public records: <https://lcb.wa.gov/records/make-public-records-request>



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Questions?

Contact Kathy Hoffman, Policy and Rules Manager

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Thank you!