

Outdoor Marijuana Producers – Regulatory/Permitting Guidance

In addition to the requirements of the Washington State Liquor and Cannabis Board (LCB), marijuana producers applying for licenses under Initiative 502 (I-502) may be subject to additional local, state and regional regulations.

This fact sheet is intended to help outdoor marijuana producers be aware of local, state and/or regional requirements they may need to meet. Additional regulatory requirements can include environmental permitting¹, land-use regulations (zoning), business licensing, and building/fire codes and have separate timelines and costs from the LCB process.

Important Note: The LCB grants marijuana license endorsements to specific physical locations. If you change your address or move your business, please contact the LCB.

Local Government Permits and Regulations

Local governments are responsible for determining how land is used and where businesses can locate in their jurisdictions. Typical land-use designations include residential, commercial, industrial, manufacturing and agricultural although local authorities may develop marijuana-specific zoning. Make sure local zoning allows your proposed use before committing to a location.

Local governments may also have their own business licensing requirements. They also administer building, fire, electrical, mechanical, energy, plumbing and sign codes. If you plan to make any changes to a structure or use of a location, you may need a permit.

Tip: Many local governments offer a “pre-application” meeting where you can learn what local permits you will need and the time/cost it will take to obtain them. Call your local permitting agency, often the planning and development department and ask for their help. It could save you time and money. Contact information for cities can be found [here](#)². Contact information for counties can be found [here](#)³.

State Environmental Policy Act (SEPA) – SEPA is not a permit; it is an environmental review process which helps governments make decisions about permits and other actions. The LCB completed a SEPA review for the rules governing marijuana licensing. Individual producer operations may also have to undertake SEPA reviews. Local permitting agencies will determine if it is necessary.

If SEPA is required, project applicants must complete a checklist describing the possible environmental impacts of their project. Processes such as solid waste disposal, traffic impacts, odors, etc. may be included. Additional guidance about SEPA can be found at: <http://www.ecy.wa.gov/programs/sea/sepa/agenciesApplicantsGuidance.html>

State and Regional Environmental Permits and Other Regulations

There are a number of environmental permits and other regulations that may apply to outdoor growing operations. These permits are generally administered by state or regional agencies unless a local jurisdiction has been delegated by the state to issue the permit.

Water Resource Regulations – Water availability for outdoor growing operations can vary significantly from county to county or water source to water source. Generally, outdoor irrigation growers have four options to supply water to plants: 1) Obtaining a water right permit; 2) Relying on the water right permit exemption for small uses of water; 3) Obtaining water from a water purveyor such as an irrigation district, or; 4) Relying on rainfall.

- A Water Right Permit from the state Department of Ecology (ECY) is needed for ground water withdrawals over 5,000 gallons a day or any surface water withdrawal.
- A Water Right Permit Exemption is available for groundwater withdrawals (exempt wells) of no more than 5,000 gallons a day *in some areas*. In other areas, new water withdrawals may be subject to mitigation requirements. Although this withdrawal does not need a permit, it is still subject to the same privileges and restrictions as a permitted water right. Only one groundwater exemption is allowed for any one project, regardless of size.
- Rainwater collection systems are allowed in Washington without requiring a water right. They can be used to store water collected in wet seasons for later use. Groundwater from exempt wells can also be pumped to a storage tank or cistern that is part of the rainwater collection system and stored until needed for beneficial use as long as the 5,000 gallon limit per day is not exceeded.
- Collected rain or ground water can only be used on the same parcel from which it was captured. For more information about water rights and rainwater collection systems, see:
 - <http://www.ecy.wa.gov/programs/wr/rights/water-right-home.html>
 - <http://www.ecy.wa.gov/programs/wr/hq/rwh.html>

Tip: Growers should contact their nearest ECY office for information on water availability in their area before proceeding with a property purchase or accessing a water supply. ECY can help you determine if water is available for your property see:

http://www.ecy.wa.gov/programs/wr/rights/find_existing_wr.html

Water Quality Permits – Water quality permits address wastewater or stormwater discharged from a facility or leaving facility grounds. Drainage from agricultural fields may require permits, depending on the environmental conditions of the location, the content and amount of discharge water, and the type of drainage system.

Any system that drains to ground in any fashion – directly, drainage trenches, or infiltration trenches – may need a *State Wastewater Discharge Permit*. Land application of wastewater to cropland or other vegetation may also need a permit.

Wastewater Discharge Permits may be issued by either the state Department of Ecology (ECY) or a local jurisdiction. For more information see:

<http://apps.oria.wa.gov/permithandbook/permitdetail/20>

Chemigation and Fertigation Regulations – Chemigation or fertigation refers to the application of fertilizers and/or pesticides through a water irrigation system, commonly called “drip systems”. Fertilizers can also include water reclaimed from food processing or wastewater treatment facilities.

Chemigation and fertigation systems must be installed according to state regulations, WAC 16-202-1001 and WAC 16-202-2002. The Washington State Department of Agriculture (WSDA) has a technical assistance program to assist individuals who are installing these systems to protect human health and the environment from improper fertilizer and pesticide use. For more information see:

- <http://agr.wa.gov/PestFert/ChemFert/>
- <http://apps.leg.wa.gov/WAC/default.aspx?cite=16-202>

Air Quality Regulations – Depending on location, ECY or a local clean air authority will regulate activities that may affect air quality in different regions of the state. Activities that can be regulated include odors, dust and outdoor burning.

Odors and fugitive dust caused by agricultural activities on agricultural land are generally exempt from the requirements of Washington’s Clean Air Act. Cannabis is not considered an agricultural product and the waste associated with the product cannot be burned.

Tip: Consult with your local clean air agency or ECY to determine if your outdoor operation or activities meet the requirements of the Clean Air Act or if you need a burn permit.

<http://www.ecy.wa.gov/programs/air/local.html>.

Solid Waste Handling – Outdoor growers have several options for disposal of marijuana waste but each has different requirements.

- Unadulterated marijuana crop residues may be tilled under, *in place only*, and do not need to be ground and mixed with 50% other waste as required by the marijuana licensing rules.

If marijuana crop residues are not tilled under in place, they will need to be rendered unusable by mixing with 50% other materials and ground before disposal. This mix is considered a “solid waste” by Washington State regulations and must be handled according to the “Solid Waste Handling Standards, WAC 173-350” *and* the requirements of the marijuana licensing rules.

Ground materials can be handled in several ways:

- Crop residues which have been ground and mixed with 50% other materials can be land applied at agronomic rates. Land application will need a permit from the local health district.
- Composting of the ground marijuana mix on-site is allowed and the composted material can be returned to the fields.
- The ground marijuana mix may be shipped off-site to a regulated solid waste facility for disposal, composting or other handling.

Solid waste regulatory oversight is the responsibility of local health districts (sometimes called “environmental health”). Producers should work with their local health district to determine proper disposal of solid wastes.

Tip: Determine how you propose to handle your solid wastes before beginning operations. Be prepared to discuss the following with your local health district (be as specific as possible):

- *How much waste will you have?*
- *What will the marijuana waste be mixed with to render it unusable?*
- *If waste material is held before it is disposed of, where, how and for how long will it be stored?*
- *Do you plan to compost marijuana waste on-site?*
- *Do you plan to ship marijuana waste off site? If so, who will be hauling it and where will it go?*
- *If land-applying, where will that occur?*

Local health districts can be found [here](#)⁴.

Hazardous Waste Management – Waste pesticides may require special disposal.

Tip: The WSDA operates a waste pesticide collection program, for information see:

<http://www.aqr.wa.gov/PestFert/Pesticides/WastePesticide.aspx>. Waste pesticides may also be accepted at your local hazardous waste collection facility.

Forest Practices Permit – If a property owner is considering changing forested land to agricultural use they may need a Forest Practices Permit.

The Department of Natural Resources (DNR) regulates forest practices on private/state lands and issues Forest Practices Permits. Some counties and cities also issue permits for converting forest land to other uses. In those counties and cities a DNR permit is not required.

To determine jurisdictions see:

<http://apps.oria.wa.gov/permithandbook/permitdetail.asp?id=34>

Labor and Industry Regulations – Businesses in the marijuana industry need to comply with workers' compensation laws as well as safety and health laws, just like all other businesses operating in Washington State. Workers' compensation insurance coverage is required for employees and other eligible workers. Workers cannot waive their rights to this coverage (RCW 51.04.060). Workers' compensation requirements for the marijuana industry can be found [here](#)⁵. Safety and health requirements can be found [here](#)⁶.

Do You Need Environmental Permits?

For assistance with understanding environmental permits and other regulatory questions, contact the Governor's Office for Regulatory Innovation and Assistance (ORIA) at 1-800-917-0043 or help@oria.wa.gov. ORIA can:

- Guide you through the environmental permitting process
- Save you time and money by clarifying requirements up front
- Provide one-on-one consultation and research on project-specific requirements.
- Provide online information and tools to help you start and operate your business

Notes

- ¹ The term 'permit' is a synonym for process, permit, authorization, license, regulation, certificate and approval.
- ² **City contact information:** <http://mrsc.org/Home/Research-Tools/Washington-City-and-Town-Profiles.aspx>
- ³ **County contact information:** <http://mrsc.org/Home/Research-Tools/Washington-County-Profiles.aspx>
- ⁴ **Local health districts:**
<http://www.doh.wa.gov/AboutUs/PublicHealthSystem/LocalHealthJurisdictions.aspx>
- ⁵ **Workers compensation requirements:**
<http://www.lni.wa.gov/FormPub/Detail.asp?DocID=2742>
- ⁶ **Safety and health requirements:**
<http://www.lni.wa.gov/Safety/Topics/Industries/Marijuana/>