

**OFFICE OF THE
WASHINGTON STATE LIQUOR CONTROL BOARD
Board Meeting Minutes – April 22, 2009**

Board Member Roger Hoen called the regular meeting of the Washington State Liquor Control Board (WSLCB) to order at 9:30 a.m., on Wednesday, April 22, 2009 in the boardroom at WSLCB Headquarters, 3000 Pacific Ave, Olympia. Board Member Ruthann Kurose was present. Board Chairman Lorraine Lee joined the meeting shortly after the start. This meeting was audio recorded.

Employee Recognition – Annelle Lerner, Human Resources Director and John Redal, Retail Services Director

Annelle and John recognized the Retail Services Hiring Committee. Committee members include: Brent Neff, Store Manager; Chuck O'Donnell, Retail Operations Manager; Dain Copstead, Store Manager; Debbie McVicker, District Manager; Janet Krueger, Recruitment Manager; Kathe McDaniel, District Manager; Kevin Villarias, Store Manager; Tess Millar, WPEA; Kelli Skramstad, Retail Recruitment Specialist

Board Approval to file CR 102 – WAC 314-29-010 – Penalty Guidelines – Karen McCall, Rules Coordinator

The enforcement division seeks to add the work "suspension" to the second sentence of WAC 314-29-010(2) in order to clarify which penalty applies when a licensee or permit holder does not respond timely to an administrative violation notice (AVN).

The Board members unanimously approved the filing of CR 102 for rules review of WAC 314-29-010. *(See attached approval for filing a notice of proposed rulemaking (CR 102) for rules review of WAC 314-29-010.)*

Delegation of Authority Interim Policy Approval – Alan Rathbun, Licensing Director

Alan presented the Board with a proposed interim policy on delegation of authority to make threshold decisions related to liquor license applications and renewals where objections have been received and the applicant/licensees appears to not meet eligibility requirements.

Board members acknowledged that if a license applicant requests a hearing, the Board would become involved in the process. This eliminates the Board reviewing and approving an application more than once. The Board members request the licensing division provide tracking reports for these types of decisions.

Jan Gee, President of the Washington Food Industry, addressed the Board. She complimented the WSLCB for streamlining the licensing processes. Jan would like to see the licensing division work with retailers to implement more efficiencies in the licensing processes.

The Board members unanimously approved Interim Policy #4-2009, Delegation of authority to make threshold decisions related to liquor license applications and renewals where objections have been received or the applicant/licensee appears to not meet eligibility requirements. *(See attachment)*

Potential New Listings and Rejections – Steve Burnell, Marketing Manger

Steve Burnell made recommendations as explained in the April 22, 2009 memo on potential new listings and rejections *(see attachment)*. The Board members unanimously approved the recommendations.

Potential Size Extensions – Steve Burnell, Marketing Manager

Steve Burnell made recommendations as explained in the April 22, 2009 memo on potential size extensions (*see attachment*). The Board members unanimously approved the recommendations.

Potential One-Time-Only Listings – Steve Burnell, Marketing Manager

Steve Burnell made recommendations as explained in the April 22, 2009 memo on one-time-only listings (*see attachment*). The Board members unanimously approved the recommendations.

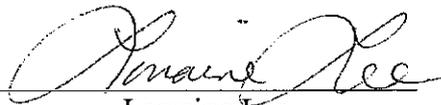
Potential New Wine/Beer Listings and De-listings – Steve Burnell, Marketing Manager

Steve Burnell made recommendations as explained in the April 22, 2009 memo on potential new wine/beer listings and de-listings (*see attachment*). The Board members unanimously approved the recommendations.

Approval of Minutes – Board Members

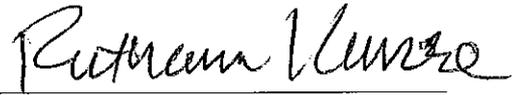
The Board unanimously approved meeting minutes from the April 15, 2009 Board meeting.

The Board meeting was adjourned at 10:45 a.m.



Lorraine Lee
Board Chairman

Roger Hoen
Board Member



Ruthann Kurose
Board Member



**Washington State
Liquor Control Board**

Date: April 22, 2009

To: Lorraine Lee, Board Chairman
Roger Hoen, Board Member
Ruthann Kurose, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Pat Kohler, Administrative Director
Rick Garza, Deputy Administrator
Pat Parmer, Enforcement and Education Director

Subject: Approval for filing a notice of proposed rulemaking (CR 102) for rules review of WAC 314-29-010.

At the Board meeting on April 22, 2009, the rules coordinator requests that the Liquor Control Board approve the filing of notice of proposed rule making (CR 102) regarding rules review for WAC 314-29-010.

An issue paper on the proposed rule changes is attached.

Process

If approved, the rules coordinator will file a notice of proposed rule making (CR 102) with the Office of the Code Reviser. A notice will be sent to interested parties for input and a public hearing date will be set.

If approved for filing, the tentative timeline for the rule making process is outlined below:

April 22, 2009	Board is asked to approve filing the proposed rules (CR 102 filing)
May 6, 2009	Code Reviser publishes notice; LCB sends notice to rules distribution list.
May 27, 2009	Public hearing held
June 5, 2009	End of written comment period
June 10, 2009	Board is asked to adopt rules
June 12, 2009	Agency sends a concise explanatory statement to those who commented both at the public hearing and in writing.
June 12, 2009	File adopted rules with the Code Reviser (CR 103)
July 13, 2009	Rules are effective (31 days after filing)

Approve

Disapprove

Lorraine Lee, Chairman

Date

Approve

Disapprove

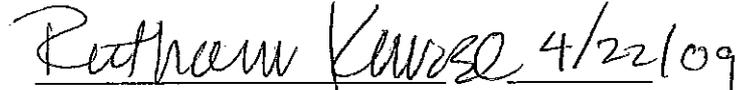


Roger Hoerj, Board Member

4/22/09
Date

Approve

Disapprove



Ruthann Kurose, Board Member

4/22/09
Date

Attachment: Issue Paper

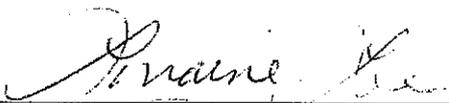
Liquor Control Board Interim Policy #4-2009

Subject of Policy: Delegation of authority to make threshold decisions related to liquor license applications and renewals where objections have been received or the applicant/licensee appears to not meet eligibility requirements

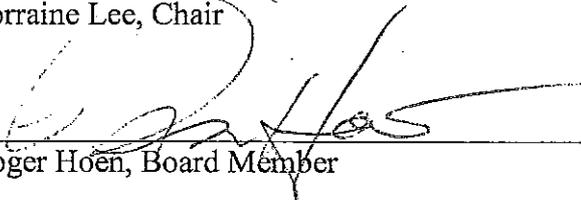
Effective Date: April 22, 2009

Ending Date: Upon adoption of WACs to implement this change in policy/procedure.

Approved:



Lorraine Lee, Chair



Roger Hoën, Board Member



Ruthann Kurose, Board Member

Purpose and Background:

State law (RCW 66.24.010) governs the issuance of liquor licenses. When either a new license application is received or when a license is pending renewal, state law requires the applicable local government authority to be notified and given the opportunity to object to said issuance. Under current procedure, a pending application or renewal that has had an objection received is forwarded to the Board Members for an initial threshold determination. In making this submission Licensing and Enforcement staff submits recommendations with accompanied justification.

If the initial determination by the Board Members is contested by either the applicant/licensee or the local authority, they must make a final determination in the same case after an adjudicative hearing by an administrative law judge. While not inappropriate under administrative law (RCW 34.05), this process presents an appearance of fairness concern.

Policy Statement:

The Board hereby delegates authority to the Licensing and Regulation Division Director to make initial threshold determinations relative to liquor license applications and renewals where objections have been submitted. This threshold determination is to be

made in accordance with the provisions of RCW 66.24.010 as well as all other relevant sections of state law and title 314 WAC. The Licensing Director shall give substantial weight to objections from a local authority where said objections are based on chronic illegal activity. Further, the Licensing Director will give due consideration to the location of a new liquor license applicant as it relates to its proximity to churches, schools, public institutions as well other considerations raised by the local authority.

The Licensing Director is also granted the authority to make initial threshold determinations where the applicant/licensee appears to be ineligible for a license due to failure to meet requirements under statute or rule. This failure to meet eligibility requirements includes data obtained through a criminal background check or Criminal History Record Information (CHRI) report.

Where the Licensing Director determines that the Liquor Control Board (LCB) will seek denial of a license application or non-renewal of an existing license, an aggrieved applicant/licensee is granted a hearing before an administrative law judge. In a case where the Licensing Director determines that the LCB will seek to license over the objection of a local authority, the local authority may request an adjudicative hearing. The Board Members further delegate the Licensing Director the authority to determine whether said hearing will be granted. The Licensing Director is to grant such a hearing request where the objection is based on alleged conduct which is jurisdictional to the LCB under Title 66 RCW and/or Title 314 WAC.

The following procedure relates directly to an application/renewal which is objected to by a local authority or others. In those circumstances where the applicant/licensee does not appear to meet eligibility requirements, some of these steps will not apply.

Procedure and/or Desired Outcome	Responsible Party
Receive objection from local authority, school or citizen. Evaluate objection for timeliness, subject jurisdiction and whether further supporting documentation is necessary. Acknowledge receipt as appropriate.	LCB Licensing and Regulation Division
Feedback and recommendations requested from Enforcement and Education Division.	LCB Licensing and Regulation Division
Enforcement provides written recommendations to the Licensing Director with justification.	LCB Enforcement and Education Division
Licensing managers evaluate all relevant information and develop DRAFT recommendations on the application/renewal. File submitted to prosecuting AAGs for their review and comment.	LCB Licensing and Regulation Division
Prosecuting AAGs advise licensing managers of their comments on recommended action.	LCB Licensing and Regulation Division
Licensing managers prepare recommendation and submit to Director for action. While the recommendation will be in writing, the presentation may be in person with representatives from Enforcement in attendance.	LCB Licensing Managers

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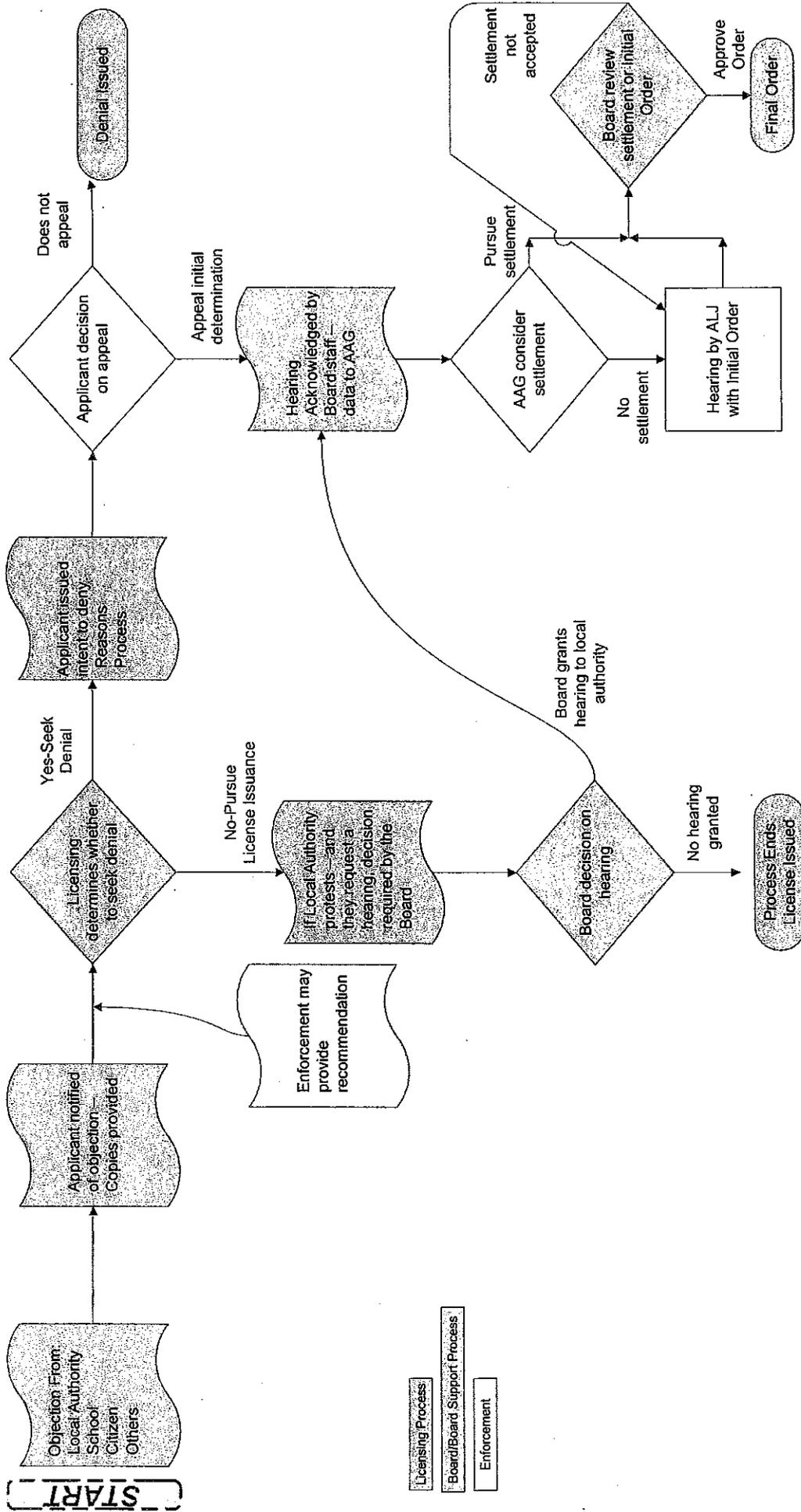


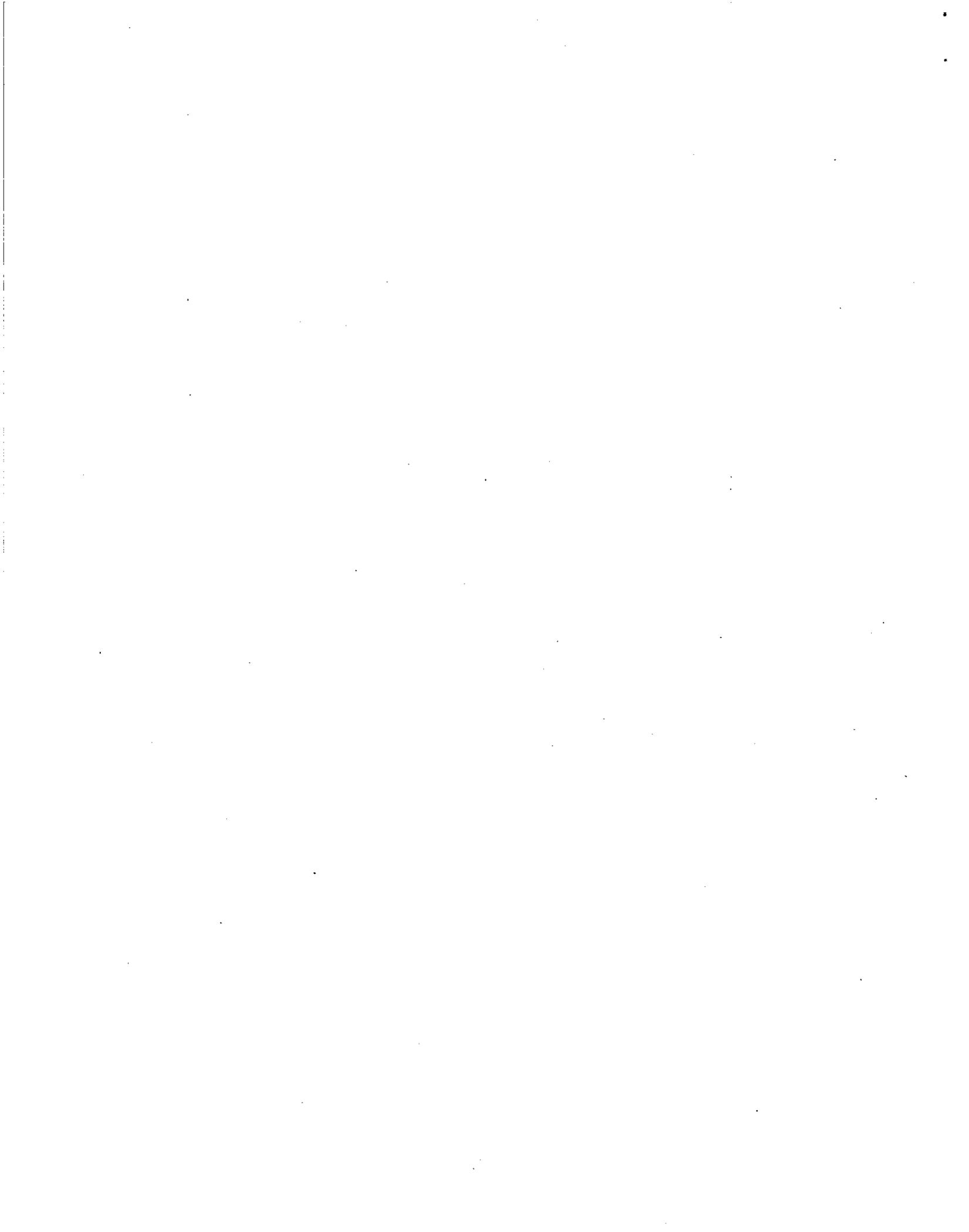
Procedure and/or Desired Outcome	Responsible Party
<p>Licensing Director makes threshold determination and directs preparation of either:</p> <ul style="list-style-type: none"> • Intent to deny/not renew to applicant/licensee; or • Notice to local authority that license will be issued/renewed over their objection <p>These notifications will include appropriate information relative to appeal rights and required response timeframes.</p>	<p>Licensing Director</p>
<p>Licensing notifies all parties of threshold determination.</p>	<p>LCB Licensing and Regulation Division</p>
<p>Where the threshold determination is to issue a license or renewal over an objection by the local authority, granting such a hearing will be discretionary based on whether the objection is based on safety related issues jurisdictional to the LCB under statute or rule.</p>	<p>Licensing Director</p>
<p>This is the end of LCB Licensing Division's direct role in this process.</p> <p>In cases where the applicant/licensee appeals the threshold decision by Licensing, the process for handling the request for a hearing will be the responsibility of Board's Adjudicative Proceedings Coordinator. Similarly, where the local authority is granted a hearing, the handling of this request will be by the Board's Adjudicative Proceedings Coordinator.</p>	

Attached are flowcharts for the Contested License Application and Contested Renewal process.

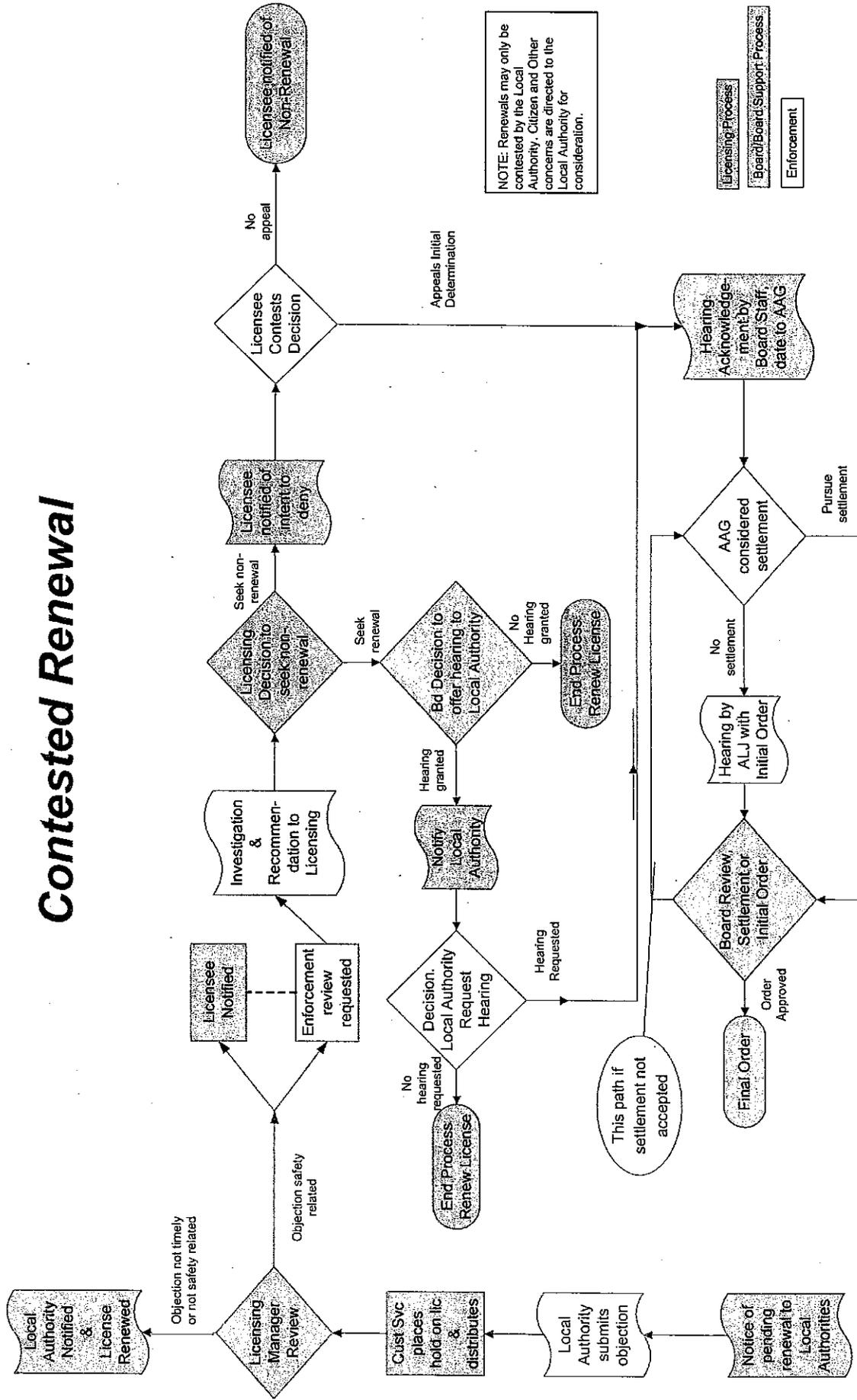


Contested License Application





Contested Renewal



NOTE: Renewals may only be contested by the Local Authority, Citizen and Other concerns are directed to the Local Authority for consideration.

Licensing Process
 Board/Board Support Process
 Enforcement

Issue Paper

Rule Making on WAC 314-29-010(2)

Date: April 22, 2009

Presented by: Karena Kirkendoll

DESCRIPTION OF ISSUE

The purpose of this issue paper is to recommend that the Washington State Liquor Control Board (WSLCB) proceed with proposed rule changes (CR 102) revising WAC 314-29-010 (2).

WHY IS RULE MAKING NECESSARY?

Enforcement seeks to add the word "suspension" to the second sentence of WAC 314-29-010(2) in order to clarify which penalty applies when a licensee or permit holder does not respond timely to an administrative violation notice (AVN).

BACKGROUND

Current language in WAC 314-29-010 needs to be clarified. WAC 314-17-105; and WAC 314-29-020; -025; -030; and -035 list the violations and penalties associated with licensee and permit holder liquor law violations. The majority of the listed penalties offer a fine in lieu of suspension.

When licensees or permit holders fail to respond to an AVN within twenty days by electing to pay a fine or to request a hearing, disagreement often occurs over whether the licensee or permit holder retains the option of paying the fine in lieu of the suspension per WAC 314-29-010(2).

WAC 314-29-010(1) expressly provides that a licensee has 20 days from receipt of the notice to accept the recommended penalty. The benefit inherent in this time-limited election is the option to choose between the standard fine and suspension. If a licensee were to retain the option to choose between the fine and suspension even after failing to respond within the 20-day period, the requirement to respond within the 20-day period would be rendered meaningless. It is Enforcement's position that after a licensee or permit holder has failed to timely respond to an AVN by electing to pay the fine or to request a hearing, the only available penalty should be suspension.

The lack of clarity in WAC 314-29-010(2) creates a loophole which results in licensee confusion, increased administrative costs, a lack of adherence to due process timelines, growing contention and litigation. Additionally, permitting the licensee to retain the choice between the fine and suspension after failing to timely respond to the AVN necessarily results in higher labor costs because the licensee retains the choice to pay the fine even after officers have driven a great distance to suspend the liquor license.

To ensure that consistency, fairness, and appropriate due process apply to all licensees and permit holders, the loophole in WAC 314-29-010(2) should be closed. Allowing a

licensee or permit holder who has failed to timely respond to an AVN to negotiate the default penalty merely perpetuates an unnecessary dialogue with associated costs, and weakens the alternative dispute resolution process.

WHAT CHANGES ARE BEING PROPOSED?

Amend WAC 314-29-010 (2) What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within twenty days?

The current rule states, "If a licensee or permit holder does not respond to the administrative violation notice within twenty days, the recommended penalty will go into effect." The rule needs to state that the recommended penalty is suspension.

RECOMMENDATION

Staff recommends that the Board proceed with rulemaking (CR 102) to revise WAC 314-29-010 (2).

ATTACHMENT: WAC 314-29-010 (2)

**WASHINGTON STATE LIQUOR CONTROL BOARD
INTEROFFICE CORRESPONDENCE**

Date: April 22, 2009

To: Chairman Lorraine Lee
Board Member Roger Hoen
Board Member Ruthann Kurose

From: Steve Burnell, Marketing Manager

Subject: POTENTIAL NEW WINE/BEER LISTINGS

From blind tastings, the following selections and recommendations were made by the Committee and the Purchasing Division. I recommend the Board approve the following listing actions.

Wine	Region	Vintage	Retail	Recommendation
Ch Ste Michelle Indian Wells Chardonnay	WA	2007	\$13.99	Regular Listing
Ch Ste Michelle Indian Wells Merlot	WA	2006	\$13.99	Regular Listing
Ch Ste Michelle Indian Wells Cabernet Sauv	WA	2006	\$13.99	Regular Listing
Ch Ste Michelle Indian Wells Riesling	WA	2007	\$13.99	Regular Listing

The following wines/beer are offered as a One-Time-Only purchase. The Purchasing Division and I recommend the Board approve the following *One-Time-Only listings*.

Wine	Region	Vintage	Retail	Number of Cases
Wrangler Cabernet Sauvignon	WA	2007	\$3.99	336 cases
Coppola Rosso	CA	NV	\$4.99	280 cases
Coppola Bianco	CA	NV	\$4.99	280 cases
Marilyn Merlot	CA	2007	\$28.27	28 cases
Stone Cellars Chardonnay	CA	2007	\$3.99	224 cases
Stone Cellars Cabernet Sauvignon	CA	2006	\$3.99	224 cases
Stone Cellars Merlot	CA	2006	\$3.99	224 cases
Stone Cellars Pinot Grigio	CA	2007	\$3.99	224 cases
Rogue "American Amber" Ale 6/pack	WA	2008	\$10.98	280 cases

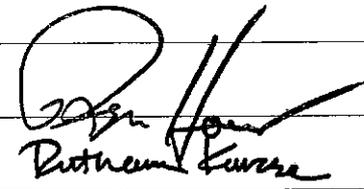
The following wines are offered in limited quantities for the wine specialty stores. The Purchasing Division and I recommend the Board approve the following *U-code listings*.

Wine	Region	Vintage	Retail	Number of Cases
Poet's Leap Riesling	WA	2008	\$19.99	14 cases
Saggi Super Tuscan Blend Red Wine	WA	2006	\$44.99	7 cases
Chester Kidder Red Wine	WA	2005	\$49.99	7 cases
Sequel Syrah	WA	2006	\$54.99	7 cases
Pedestal Merlot	WA	2006	\$54.99	7 cases
Feather Cabernet Sauvignon	WA	2006	\$59.99	7 cases
Pirouette Red Wine	WA	2005	\$54.99	7 cases

Note: All delistings are 750 ml size unless noted otherwise.

FOR BOARD CONCURRENCE:

4/22/09
DATE



Patricia Kuzma

- cc: Pat Kohler
- Pat McLaughlin
- Debi Besser
- John Redal
- Randy Simmons
- Meagan Renick
- Kelly Higbee
- Jeffrey James
- Cindy Doughty
- Robin Hall
- Kim Ward
- Casey Walker
- Lacinda Thomas
- Frances Munez-Carter
- Gary Hacker

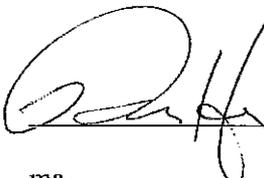
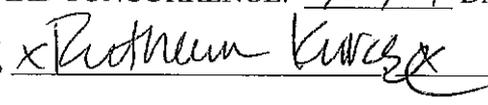
WASHINGTON STATE LIQUOR CONTROL BOARD
INTEROFFICE CORRESPONDENCE

Date: April 22, 2009
To: Chairman Lorraine Lee
Board Member Roger Hoen
Board Member Ruthann Kurose
From: Steve Burnell, Marketing Manager

Subject: POTENTIAL NEW LISTINGS AND REJECTIONS

In accordance with the criteria set forth in Agency Policy #915 Listing and Delisting Liquor Products, I recommend that the Board approve the following actions.

<u>Description</u>	<u>Recommendations</u>
Red Stag Black Cherry Infused Whiskey Bourbon, 750 ml (\$19.95)	List
Ardbeg 10 Year Scotch Whisky, 750 ml (\$59.95)	List
Ron Zacapa 23 Year Rum, 750 ml (\$44.95)	List
Stirrings Margarita 1% Mixer, 750 ml (\$8.95)	List
Sobieski Vodka, 750 ml (\$13.95)	List
Seagram's Smooth Brazilian Rum, 750 ml (\$12.95)	List
Margaritaville Watermelon RTD Mojito, 1.75 Liter (\$24.95)	List
Margaritaville Pomegranate RTD Mojito, 1.75 Liter (\$24.95)	List
Pacifique Absinthe Verte Liqueur, 750 ml (\$62.95)	List
Sol de Mexico Anejo Tequila, 750 ml (\$50.95)	Reject
Sol de Mexico Blanco Tequila, 750 ml (\$44.95)	Reject
Maurizio Russo Limoncello Liqueur, 750 ml (\$24.10)	Reject
Putinka Limited Edition Premium Russian Vodka, 750 ml (\$35.55)	Reject
Putinka Classic Soft Russian Vodka, 750 ml (\$17.50)	Reject
CROP Harvest Artisanal Vodka, 750 ml (\$28.95)	Reject
CROP Harvest Tomato Vodka, 750 ml (\$28.95)	Reject
CROP Harvest Cucumber Vodka, 750 ml (\$28.95)	Reject
Seagram's Raspberry Rum, 750 ml (\$12.95)	Reject
Seagram's Citrus Rum, 750 ml (\$12.95)	Reject
Margaritaville Classic RTD Mojito, 1.75 Liter (\$24.95)	Reject

 FOR BOARD CONCURRENCE: 4/22/09 DATE


ma
cc: Pat Kohler
Pat McLaughlin
John Redal
Randy Simmons
Debi Besser
Meagan Renick
Kelly Higbee
Jeffrey James
Cindy Doughty
Robin Hall
Kim Ward
Casey Walker
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Gary Hacker



WASHINGTON STATE LIQUOR CONTROL BOARD

INTEROFFICE CORRESPONDENCE

Date: April 22, 2009

To: Chairman Lorraine Lee
Board Member Roger Hoen
Board Member Ruthann Kurose

From: Steve Burnell, Marketing Manager

Subject: POTENTIAL ONE-TIME-ONLY LISTING

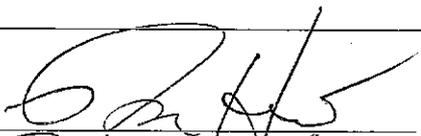
The supplier of the following item is requesting One-Time-Only (OTO) listing.

<u>Product Description</u>	<u>Retail Price</u>	<u>Cases</u>
Seagram's 7 Crown Blend 75 th Anniversary Edition, 750 ml	\$17.85	500 cases

I recommend that the Board approve this one-time-only listing.

FOR BOARD APPROVAL:

4/22/09
DATE



Ruthann Kurose

ma

cc: Pat Kohler
Pat McLaughlin
John Redal
Debi Besser
Randy Simmons
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Robin Hall
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Frances Munez-Carter
Gary Hacker



WASHINGTON STATE LIQUOR CONTROL BOARD

INTEROFFICE CORRESPONDENCE

April 22, 2009

To: Chairman Lorraine Lee
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From: Steve Burnell, Marketing Manager

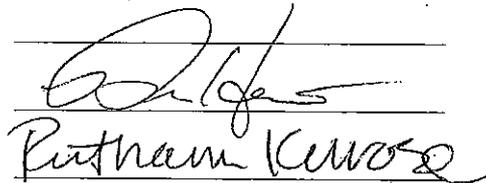
Subject: POTENTIAL SIZE EXTENSIONS

In accordance with the criteria set forth in Agency Policy #915 Listing and Delisting Liquor Products. I recommend that the Board approve listing the following size extensions.

Requested Size Extension	Size	Retail Price	Current Average Monthly Case Sales of the 750 ml Size	Current Monthly Gross Profit	Rank in Category
Captain Morgan Spiced Rum Traveler	1.75 Liter	\$36.95	3,269	\$180,562	#1
X-Rated Fusion Liqueur	375 ml	\$14.95	410	\$15,370	#3

FOR BOARD APPROVAL:

4/22/09
DATE


Ruthann Kurose

cc: Pat Kohler
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