



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Washington State Liquor and Cannabis Board

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** Amendments to WAC 314-55-089 to add provisions to require marijuana excise tax payments by electronic payment, check, cashier's check, or money order. The changes also provide provisions on when payments are deemed received. A waiver process is also established to allow those to apply for a waiver from the payment requirements based on good cause. If a licensee fails to apply for a waiver or is denied a waiver, they may be assessed a ten percent penalty should the licensee continue to tender marijuana excise tax payments in cash. If a licensee is denied a waiver, they have the right to appeal the decision under the Administrative Procedures Act, chapter 34.05 RCW. WAC 314-55-110 is amended to allow appeals of waiver denials to proceed as brief adjudicative proceedings as allowed under RCW 34.05.482 through 34.05.494. These rule changes were made to implement the budget proviso related electronic payment of the marijuana excise tax included by the Legislature in the 2016 Supplemental Budget.

**Citation of existing rules affected by this order:**

Repealed:  
Amended: WAC 314-42-110, and 314-55-089  
Suspended:

**Statutory authority for adoption:** RCW 69.50.342, 69.50.345, 69.50.535, and SL 2016 c 36 (2ESHB 2376)

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 16-15-036 on July 13, 2016 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**Date adopted:** September 7, 2016

**NAME (TYPE OR PRINT)**

Jane Rushford

**SIGNATURE**

**TITLE**

Chair

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 07, 2016**

**TIME: 12:53 PM**

**WSR 16-19-002**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|   |     |       |         |       |          |       |
|---|-----|-------|---------|-------|----------|-------|
| <b>Federal statute:</b>                 | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Federal rules or standards:</b>      | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Recently enacted state statutes:</b> | New | _____ | Amended | _____ | Repealed | _____ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted in the agency's own initiative:**

|     |       |         |          |          |       |
|-----|-------|---------|----------|----------|-------|
| New | _____ | Amended | <u>2</u> | Repealed | _____ |
|-----|-------|---------|----------|----------|-------|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted using:**

|                                       |     |       |         |       |          |       |
|---------------------------------------|-----|-------|---------|-------|----------|-------|
| <b>Negotiated rule making:</b>        | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Pilot rule making:</b>             | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Other alternative rule making:</b> | New | _____ | Amended | _____ | Repealed | _____ |

**WAC 314-42-110 Brief adjudicative proceedings.** The Administrative Procedure Act provides for brief adjudicative proceedings in RCW 34.05.482 through 34.05.494. The board will conduct brief adjudicative proceedings where it does not violate any provision of law and where protection of the public interest does not require the board to give notice and an opportunity to participate to persons other than the parties. If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

- (1) Liquor license suspensions due to nonpayment of spirits taxes per RCW 66.24.010;
- (2) Liquor license denials per WAC 314-07-065(2);
- (3) Liquor license denials per WAC 314-07-040;
- (4) Special occasion license application denials per WAC 314-07-040;
- (5) Special occasion license application denials per WAC 314-07-065(7);
- (6) MAST provider or trainer denials for noncompliance with a support order in accordance with RCW 66.20.085;
- (7) MAST provider denials or revocations per WAC 314-17-070;
- (8) Liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015;
- (9) One-time event denials for private clubs per WAC 314-40-080;
- (10) Banquet permit denials per WAC 314-18-030;
- (11) The restrictions recommended by the local authority on a nightclub license are denied per WAC 314-02-039 (a local authority may request a BAP);
- (12) The restrictions recommended by a local authority are approved per WAC 314-02-039 (an applicant for a nightclub license may request a BAP);
- (13) Liquor license suspensions due to noncompliance with a support order per RCW 66.24.010;
- (14) Liquor license suspensions due to noncompliance with RCW 74.08.580(2), electronic benefits cards, per RCW 66.24.013;
- (15) License suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630;
- (16) License suspension due to nonpayment of spirits distributor license fees per RCW 66.24.055;
- (17) Tobacco license denials per WAC 314-33-005;
- (18) Marijuana license denials per WAC 314-55-050(2);
- (19) Marijuana license denials per WAC 314-55-050(4);
- (20) Marijuana license denials per WAC 314-55-050(8);
- (21) Marijuana license denials per WAC 314-55-050(10);
- (22) Marijuana license suspensions per WAC 314-55-050(11);
- (23) Marijuana license denials per WAC 314-55-050(12); ((and))
- (24) Marijuana license denials per WAC 314-55-050(13); and
- (25) Marijuana excise tax payment waiver denials per WAC 314-55-089.

**WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees?** (1) Marijuana producer and marijuana processor licensees must submit monthly report(s) to the WSLCB. Marijuana retailer licensees must submit monthly report(s) and payments to the WSLCB. The required monthly reports must be:

- (a) On a form or electronic system designated by the WSLCB;
- (b) Filed every month, including months with no activity or payment due;
- (c) Submitted, with payment due, to the WSLCB on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;
- (d) Filed separately for each marijuana license held; and
- (e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the WSLCB.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, other marijuana processors, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the WSLCB.

(4) **Marijuana retailer's licensees:**

(a) On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the WSLCB.

(b) A marijuana retailer licensee must collect from the buyer and remit to the WSLCB a marijuana excise tax of thirty-seven percent of the selling price on each retail sale of usable marijuana, marijuana concentrates, and marijuana-infused products.

(5) **Payment methods:** Marijuana excise tax payments are payable only by check, cashier's check, money order, or electronic payment or electronic funds transfer. Licensees must submit marijuana excise tax payments to the board by one of the following means:

(a) By mail to WSLCB, Attention: Accounts Receivable, P.O. Box 43085, Olympia, WA 98504;

(b) By paying through online access through the WSLCB traceability system; or

(c) By paying using a money transmitter licensed pursuant to chapter 19.230 RCW.

(6) Payments transmitted to the board electronically under this section will be deemed received when received by the WSLCB's receiving account. All other payments transmitted to the WSLCB under this section by United States mail will be deemed received on the date shown by the post office cancellation mark stamped on the envelope containing the payment.

(7) The WSLCB may waive the means of payment requirements as provided in subsection (5) of this section for any licensee for good cause shown. For the purposes of this section, "good cause" means the inability of a licensee to comply with the payment requirements of this section because:

(a) The licensee demonstrates it does not have and cannot obtain a bank or credit union account or another means by which to comply with the requirements of subsection (5) of this section and cannot obtain a cashier's check or money order; or

(b) Some other circumstance or condition exists that, in the WSLCB's judgment, prevents the licensee from complying with the requirements of subsection (5) of this section.

(8) If a licensee tenders payment of the marijuana excise tax in cash without applying for and receiving a waiver or after denial of a waiver, the licensee may be assessed a ten percent penalty.

(9) If a licensee is denied a waiver and requests an adjudicative proceeding to contest the denial, a brief adjudicative proceeding will be conducted as provided under RCW 34.05.482 through 34.05.494.

(10) For the purposes of this section, "electronic payment" or "electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).