



Washington State Liquor and Cannabis Board

June 12, 2019

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Janette Benham, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Megan Duffy, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: Approval to file proposed rules (CR 102) regarding acceptable forms of identification

The proposed revisions to WAC 314-11-025 allow consideration of tribal enrollment cards from federally recognized Indian tribes located outside of Washington as acceptable forms of identification. Revisions also add the consideration process for tribal enrollment cards and make technical and clarifying changes regarding all acceptable forms of identification. Tribes will not need to request reconsideration for enrollment cards that are already approved. An issue paper outlining the changes is attached. The previous CR 102 was withdrawn on April 17, 2019 in order for the agency to consult with tribes. This CR 102 and proposed rule is the product of that consultation.

Process

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

June 12, 2019	<ul style="list-style-type: none">• CR 102 and proposed rules filed with the Office of the Code Reviser• LCB webpage updated and notice sent to the rules distribution list
July 3, 2019	Notice published by the Office of the Code Reviser in WSR # 19-07
August 7, 2019	Public Hearing held and end of written comment period
August 21, 2019	<ul style="list-style-type: none">• Board asked to adopt rules if no additional changes are made• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing• CR 103 and adopted rules filed with the Office of the Code Reviser• LCB webpage updated and notice sent to the rules distribution list
September 7, 2019	Rules effective (31 days after filing)

_____ Approve _____ Disapprove _____
Jane Rushford, Chair Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member Date

_____ Approve _____ Disapprove _____
Russ Hauge, Board Member Date

Attachment: Issue Paper

Issue Paper

Acceptable Forms of Identification – WAC 314-11-025

Date: June 12, 2019

Presented by: Janette Benham, Policy and Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the board to file the CR 102 with proposed revisions to WAC 314-11-025.

The proposed revisions:

- Allow consideration of tribal enrollment cards from federally recognized Indian tribes located outside of Washington as acceptable forms of identification to verify a person's age for alcohol sales, service, consumption, and possession;
- Add the process for tribes to request consideration of enrollment cards as acceptable forms of identification. The process is one we currently utilize and was added to the rule for clarification purposes; and
- Make technical changes and update the rule language to ensure requirements are clear for all acceptable identification types.

Why is rule making necessary?

Rulemaking was initiated as a result of legislative inquiries that began with contact from a tribal member of a federally recognized tribe located outside of Washington. The first CR 102 was withdrawn on April 17, 2019 in order for the agency to consult with tribes. This CR 102 and proposed revisions is a result of that consultation.

Background

The rule is being revised to allow consideration of tribal enrollment cards from federally recognized tribes located outside of Washington as acceptable forms of identification. The board's enforcement division currently reviews enrollment cards from federally recognized tribes located in Washington. Rules changes will give all federally recognized tribes the opportunity to request review and approval of their enrollment cards. A list is maintained on our website of all approved tribal enrollment cards. The tribes that currently have approved enrollment cards will not need to submit information for reconsideration. Those cards that have already been approved will remain approved.

Other technical and clarifying changes were made to ensure requirements are clear for all types of acceptable identification.

What changes are being made?

Amended Section: WAC 314-25-025 What are the forms of acceptable identification?

Amended language removes the requirement that only federally recognized tribes located in Washington may request consideration of their enrollment cards as acceptable forms of identification. Removing the Washington-specific requirement allows consideration for federally recognized tribes across the nation. Amended language adds the consideration process for tribal enrollment cards. Additional changes were made to ensure requirements are clear regarding all acceptable forms of identification.

AMENDATORY SECTION (Amending WSR 18-08-094, filed 4/4/18, effective 5/5/18)

WAC 314-11-025 What are the ~~((forms of))~~ acceptable forms of identification? (1) ~~((Following are the))~~ Acceptable forms of identification ~~((that are acceptable))~~ to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include:

(a) The identification holder's photo;

(b) The identification holder's date of birth; and

(c) The identification holder's signature, except on federally issued identification where a visible signature is not required.

(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.

(3) Acceptable forms of identification include:

(a) A driver's license, instruction permit, or identification card of any state, ~~((or))~~ province of Canada, ~~((from a))~~ U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents (~~((, which may include an embedded, digital signature in lieu of a visible signature))~~);

(c) A passport, passport card, or NEXUS card;

(d) A Merchant Marine identification card issued by the United States Coast Guard; (~~(and)~~) or

(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe (~~((located in Washington))~~), if the enrollment card incorporates reasonable security features (~~((comparable))~~) sufficient to deter counterfeiting, which may include features similar to those ((implemented)) used by the department of licensing for standard Washington driver's licenses.

~~((2) If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.))~~

(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:

(A) A letter requesting approval and describing the security features of the enrollment card;

(B) A physical sample of an enrollment card; and

(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.

(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.

(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.

[Statutory Authority: RCW 66.08.030. WSR 18-08-094, § 314-11-025, filed 4/4/18, effective 5/5/18. Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-025, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.16.040. WSR 08-03-081, § 314-11-025, filed 1/16/08, effective 2/16/08. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-025, filed 2/26/01, effective 3/29/01.]



Liquor and Cannabis Board Interim Policy BIP-12-2019

Subject: **WAC 314-55-109 – Cannabinoid additives - Requirements, restrictions, and quality assurance testing.**

Effective Date: June 12, 2019

Ending Date: Upon the effective date of a Board Interim Policy repealing this Policy that announces the implementation of a Leaf Data System workflow that will accommodate test results of CBD product obtained from a source that is not licensed by the Washington State Liquor and Cannabis Board under chapter 314-55 WAC.

Approved:

Jane Rushford, Board Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Background:

Chapter 69.50 RCW, also known as the Uniform Controlled Substances Act, contains statutory provisions that authorize and assist the Washington State Liquor and Cannabis Board (WSLCB) in framing and maintaining a tightly regulated system around the production, processing, and sale of marijuana products. RCW 69.50.326 provides that licensed marijuana producers and licensed marijuana processors may use a CBD product as an additive for the purposes of enhancing cannabinoid concentration of any product authorized for production, processing, and sale consistent with chapter 69.50 RCW. RCW 60.50.010(2)(d) defines CBD product as “any product containing or consisting of cannabidiol.”

RCW 69.50.326(1) additionally provides that licensed marijuana processors and producers must use a CBD product produced by, or purchased from, a processor or producer licensed under chapter 69.50 RCW, with one exception consisting of two elements:

- Licensed marijuana processors and producers may use a CBD product obtained from a source that is not licensed under chapter 69.50 RCW, as long as the product,
 - Has a THC level of 0.3 percent or less on a dry weight basis, and
 - The product has been tested for contaminants and toxins by a testing laboratory accredited by the WSLCB .

Consistent with the rulemaking authority provided to the WSLCB under RCW 69.50.326(3), the agency adopted rules regarding the use of additives to enhance CBD concentration of authorized products. WAC 314-55-109 became effective December 1, 2018. In addition to establishing requirements, restrictions, and quality assurance standards for CBD additives, including stringent testing protocols that align with existing testing standards for marijuana and marijuana products, the rule also requires that test results from CBD products obtained from both inside and outside the licensed structure must be entered into the state's existing traceability system, known as the Leaf Data System.

While the Leaf Data System is capable of tracking CBD products that are produced within the licensed structure, it does not have the ability to track CBD products that are produced outside of the licensed structure. Tracking CBD products that are produced outside of the licensed structure creates an additional workflow that the Leaf Data System is currently unable to support.

Purpose:

The purpose of this interim policy is to suspend the current requirement in WAC 314-55-109 that licensees must enter test results from CBD products obtained from a source not licensed under chapter 314-55 WAC into the the Leaf Data System. Once the WSLCB is able to implement the necessary system workflow, the rule suspension will be removed and the requirement will be enforced.

Policy Statement:

Licensees are not required to enter test results from CBD products obtained from a source not listed under chapter 314-55 WAC until the implementation of a Leaf Data System workflow that will allow marijuana licensees to enter test results of such CBD products.

All ofther requirements of WAC 314-55-109, including but not limited to record keeping, remain in full force and effect.



Washington State Liquor and Cannabis Board

June 12, 2019

Office of the Code Reviser:

Consistent with RCW 34.05.335 and WAC 1-21-060, the Liquor and Cannabis Board is withdrawing proposed rulemaking (CR-102), filed on November 28, 2018 as WSR 18-24-031, concerning proposed revisions to vapor product rules contained in chapter 314-35 WAC.

Jane Rushford,
Chair



Washington State Liquor and Cannabis Board

June 12, 2019

Office of the Code Reviser:

Consistent with RCW 34.05.335 and WAC 1-21-060, the Liquor and Cannabis Board is withdrawing its preproposal statement of inquiry (CR-101), filed on April 18, 2018 as WSR 18-09-116, concerning consideration of revisions to vapor product rules contained in chapter 314-35 WAC.

Jane Rushford,
Chair



Washington State Liquor and Cannabis Board

Date: June 12, 2019

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Kathy Hoffman, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Megan Duffy, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director

Subject: **Approval to file a pre-proposal statement of inquiry (CR 101) to implement the directives 2019 legislation regarding Engrossed House Bill (EHB) 1074, regarding tobacco and vapor product legal age for sales; and Engrossed Second Substitute House Bill (ESSHB) 1873, regarding vapor product taxation.**

This rulemaking will revise and update chapter 314-35 WAC – Vapor products by implementing 2019 legislation.

Revisions may also include clarifying and technical updates to existing rule.

Process

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule making was presented at the Board meeting on June 12, 2019, and is attached to this order.

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

June 12, 2019	CR 101 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by rules distribution list. Informal comment period begins.
July 3, 2019	Notice published in the Washington State Register under WSR #19-13.
August 2, 2019	End of informal comment period.

Issue Paper

Vapor Products

Date: June 12, 2019

Presented by: Kathy Hoffman, Policy and Rules Coordinator

Description of the Issue

E-cigarettes have been available on the U.S. market since 2007, and have risen to incredible popularity in a short period of time, despite users and health care practitioners having a limited amount of knowledge around the potential risks and benefits of e-cigarette use. Sales of electronic vapor products in the U.S. were estimated at 3.7 billion dollars in 2015 (Nayak, et al., 2018ⁱ). While e-cigarettes have been advertised as a cessation tool or harm reducing replacement mechanism for conventional, combustible tobacco products, evidence suggests that many users of e-cigarettes, including youth, never smoked combustible tobacco products prior to trying electronic vapor products (EVPs). Additionally, while E-cigarettes and other vape devices may reduce harm in some cases, they are not harmless, and present cardiovascular health risks due to nicotine exposure, potential increased cancer risk, and risks related to other less studied constituents in vape devices, including propylene glycol and diacetyl. (Bold, et al., 2018ⁱⁱ). Use of electronic vapor products among youth has skyrocketed, particularly in the last year, with one in five high school students reporting EVP use in the past 30 days in 2018 (Kuehn, 2019ⁱⁱⁱ).

Washington State recognizes that there is a growing body of empirical research, including a recent report issued by the National Institute of Medicine to support an overall, state-wide health goal of increasing the age of sale for both tobacco and vapor products to twenty-one. Based on this evidence, increasing the age of sale for these products will significantly reduce the number of adolescents and young adults who are smoking, and will immediately improve the health of adolescents, young adults, young mothers, and young children. To achieve that goal, Engrossed House Bill (EHB) 1074 (Chapter 15, Laws of 2019), prohibits the sale of cigarettes, tobacco products, and vapor products to persons under the age of twenty-one. This aligns Washington with several other states who have raised the minimum legal sales age to twenty-one in an effort to save lives and reduce healthcare costs.

Additionally, Engrossed Second Substitute House Bill (ESSHB) 1873 (Chapter 445, Laws of 2019) accomplishes several related goals. In addition to establishing a vapor tax structure that applies to all persons licensed to sell vapor products under chapter 70.345 RCW, it also contains statutory amendments and new sections that include, but are not limited to the establishment of recordkeeping, business, product sales and distribution requirements that also apply to all persons licensed to sell vapor products under chapter 70.345 RCW.

This Issue Paper requests approval from the Board to begin the first stage of rule development by filing a CR 101 to implement the directives 2019 legislation, specifically EHB 1074, regarding vapor product legal age for sales, and ESSHB 1873, regarding vapor product taxation.

Reasons why rules may needed:

Rules are needed to implement the directives 2019 legislation EHB 1074 regarding tobacco and vapor product legal age for sales, and ESSHB 1873, regarding vapor product taxation.

Revision may also include clarifying and technical updates to existing rule.

Process

The rule making process begins by announcing LCB's intent to consider changes to existing rules, adding new rule sections, or both by filing a CR 101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.

ⁱ Nayak, P. Barker, DC. Huang, J. Kemp, CB. Wagener, TL. Chaloupka, F. 'No, the government doesn't need to, it's already self-regulated': a qualitative study among vape shop operators on perceptions of electronic vapor product regulation. *Health Education Research*. 2018; 33:2 (114-124).

ⁱⁱ Bold, KW. Krishnan-Sarin, S. Stoney, CM. E-Cigarette Use as a Potential Cardiovascular Disease Risk Behavior. *American Psychologist*. 2018; 73(8) 955-967.

ⁱⁱⁱ Kuehn, B. Youth e-Cigarette Use. *Journal of the American Medical Association (JAMA)*. 2019; 321(2).