



**Washington State
Liquor and Cannabis Board**

Date: May 11, 2022

To: David Postman, Board Chair
Ollie Garrett, Board Member
Jim Vollendroff, Board Member

From: Audrey Vasek, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Toni Hood, Agency Deputy Director
Becky Smith, Licensing Director
Chandra Brady, Director of Enforcement and Education
Jim Morgan, Chief Financial Officer
Justin Nordhorn, Policy and External Affairs Director
Kathy Hoffman, Policy and Rules Manager

Subject: Board Approval of CR 102 related to Electronic Transmission of Documents for Service and Filing

The Policy and Rules Coordinator requests approval to file a rule proposal (CR 102) related to electronic transmission of documents for service and filing, as described in the CR 102 Memorandum attached to this order and presented at the Board meeting on May 11, 2022. If approved for filing, the tentative timeline for this rule proposal is as follows:

| | |
|------------------------------|---|
| May 11, 2022 | Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. WSLCB webpage updated and notice circulated by GovDelivery distribution list. Formal comment period begins. |
| June 1, 2022 | Notice published in the Washington State Register under WSR 22-11. |
| June 22, 2022 | Public hearing held and formal comment period ends. |
| No earlier than July 6, 2022 | Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals who offered written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. WSLCB webpage updated and notice circulated by GovDelivery distribution list. |

| | |
|----------------|---|
| August 6, 2022 | Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2). |
|----------------|---|

Approve Disapprove _____
 David Postman, Chair Date

Approve Disapprove _____
 Ollie Garrett, Board Member Date

Approve Disapprove _____
 Jim Vollendroff, Board Member Date

Attachments: CR 102 Memorandum



CR 102 Memorandum

Regarding Electronic Transmission of Documents for Service and Filing.

Date: May 11, 2022
Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

On February 2, 2022, the Washington State Liquor and Cannabis Board (WSLCB) filed a CR 101 preproposal statement of inquiry (WSR# 22-05-001) to consider creating or amending sections in Title 314 WAC to allow the WSLCB to serve and receive certain documents by electronic transmission.

RCW 34.05.010(19), which defines “service” for the purpose of the Administrative Procedure Act, allows state agencies to authorize service by electronic transmission through rule. RCW 34.05.010(6), which defines “filing,” also specifies that state agencies may designate by rule a place for receipt of official documents. Additionally, the WSLCB has rulemaking authority under RCW 66.08.030(9) to designate the manner of giving and serving notices.

A new rule section authorizing service and filing of documents by electronic transmission is needed to streamline and modernize business and adjudicative processes and bring a consistent approach to this issue across the agency. This approach will benefit anyone that interacts with the agency, including but not limited to licensees, permit holders, and any interested parties. This approach will also reduce the risks and impacts to the agency technology systems modernization project.

Stakeholder Engagement

The CR 102 rule proposal was developed through a collaborative rule development process. During the initial CR 101 public comment period from February 2, 2022 to March 18, 2022, no public comments were received. Conceptual draft rules were developed through a series of internal project team meetings including WSLCB staff from the Board Adjudications Unit, Licensing Division, Enforcement and Education Division, and Finance Division.

The agency shared the conceptual draft rules publicly through GovDelivery on April 11, 2022, and requested public feedback by April 25, 2022. This messaging is included as Attachment A to this memorandum. During the two week response window, three public

comments were received. These comments are included in Attachment B to this memorandum and were taken into consideration as the rule proposal was developed.

Estimated Costs of Compliance

Under the Regulatory Fairness Act in chapter 19.85 RCW, agencies are required to consider the costs that complying with proposed rules would impose on businesses. In this case, the agency anticipates that businesses will not have any costs associated with complying with the proposed rules, so the estimated cost of compliance is zero dollars. The proposed rules authorize electronic transmission as an *additional means* for service and filing of documents. All other existing options for service and filing, such as by mail or in-person, would remain viable options. The CR 102 form describes this analysis in more detail.

Rule Necessity

New rules are needed to authorize electronic transmission for service and filing of documents, consistent with RCW 34.05.010(6) and (19). These rules are needed to streamline and modernize business and adjudicative processes and bring an approach to service and filing of documents by electronic transmission that is consistent across the agency. This approach will benefit anyone that interacts with the agency, including but not limited to licensees, permit holders, and any other interested parties. This approach will also reduce the risks and impacts to the agency technology systems modernization project.

Description of Rule Changes

New Section WAC 314-42-005. Electronic Transmission of Documents for Service and Filing. The proposed rule adopts electronic transmission as an additional means for service and filing of documents, and authorizes electronic transmission as an approved method for service and filing wherever terms such as, but not limited to, “delivery,” “service,” “filing,” “notice,” “notification,” “request,” “letter,” “in writing,” “submit,” and “received,” are used throughout Title 314 WAC. “Electronic transmission” is defined as including, but not limited to, email, web portal, fax, or other similar methods. The proposed rule also outlines procedures for service and filing of documents by electronic transmission, and describes how the date and time of delivery or receipt will be determined.

Attachments:

Attachment A. *GovDelivery message requesting public feedback on conceptual draft rules, sent April 11, 2022.*

Attachment B. *Table containing public feedback received on the conceptual draft rules.*

PROPOSED RULE MAKING



CR-102 (December 2017) (Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 22-05-001 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) New Section WAC 314-42-005. Electronic transmission of documents for service and filing. The Washington State Liquor and Cannabis Board (WSLCB) proposes a new rule section allowing electronic transmission as additional means for service and filing of documents, consistent with RCW 34.05.010. The proposed rule defines "electronic transmission," outlines procedures for service and filing of documents by electronic transmission, and describes how the date and time of delivery or receipt will be determined.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|---------------|----------|--|---|
| June 22, 2022 | 10:00 am | In response to the coronavirus disease 2019 (COVID-19) public health emergency, the WSLCB will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. | For more information about Board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings . |

Date of intended adoption: No earlier than July 6, 2022. (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Audrey Vasek, Policy and Rules Coordinator
 Address: P.O. Box 43080, Olympia, WA 98504-3080
 Email: rules@lcb.wa.gov
 Fax: 360-704-5027
 Other:
 By (date) June 22, 2022

Assistance for persons with disabilities:

Contact Anita Bingham, ADA Coordinator, Human Resources

Phone: 360-664-1739
Fax: 360-664-9689
TTY: 7-1-1 or 1-800-833-6388
Email: anita.bingham@lcb.wa.gov
Other:
By (date) June 15, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule proposal is to authorize electronic transmission for service and filing of documents, consistent with RCW 34.05.010(6) and (19). The proposed rule adopts electronic transmission as an additional means for service and filing of documents, and authorizes electronic transmission as an approved method for service and filing wherever terms such as, but not limited to, "delivery," "service," "filing," "notice," "notification," "request," "letter," "in writing," "submit," and "received," are used throughout Title 314 WAC. "Electronic transmission" is defined as including, but not limited to, email, web portal, fax, or other similar methods. The proposed rule also outlines procedures for service and filing of documents by electronic transmission, and describes how the date and time of delivery or receipt will be determined.

Reasons supporting proposal: A new rule section authorizing service and filing of documents by electronic transmission is needed to streamline and modernize business and adjudicative processes and bring a consistent approach to this issue across the agency. This approach will benefit anyone that interacts with the agency, including but not limited to licensees, permit holders, and any other interested parties. This approach will also reduce the risks and impacts to the agency technology systems modernization project.

Statutory authority for adoption: RCW 66.08.030, 34.05.010.

Statute being implemented: None.

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|--|---------------------------------------|--------------|
| Drafting: | Audrey Vasek, Policy and Rules Coordinator | 1025 Union Avenue, Olympia WA, 98501 | 360-664-1758 |
| Implementation: | Becky Smith, Director of Licensing | 1025 Union Avenue, Olympia, WA. 98501 | 360-664-1753 |
| Enforcement: | Chandra Brady, Director of Enforcement and Education | 1025 Union Avenue, Olympia, WA, 98501 | 360-664-1726 |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: The proposed rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The WSLCB is not a listed agency under RCW 34.05.328(5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328(5)(a)(ii).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Under the Regulatory Fairness Act in chapter 19.85 RCW, agencies are required to consider the costs that complying with proposed rules would impose on businesses. RCW 19.85.040 requires agencies to consider reporting, recordkeeping, and other compliance costs of the proposed rules, including costs of equipment, supplies, labor, professional services, and increased administrative costs, and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

In this case, the agency does not anticipate that the proposed rules will impose any new reporting, recordkeeping, or other compliance costs specified in RCW 19.85.040 on businesses. The proposed rules authorize electronic transmission as an additional means for service and filing of documents, and do not limit or otherwise change existing options for service and filing. All other existing options for service and filing, such as by mail or in-person, would remain viable options.

With respect to filing documents, under the proposed rules businesses can continue filing documents with the agency using their existing preferred methods, such as by mail or in-person, and are not required to change any business practices or adopt new technologies in order to comply with the proposed rules. Therefore, these businesses would not have any new or increased costs of compliance.

Businesses that voluntarily decide to begin filing documents with the agency using electronic transmission are also not subject to any new or increased costs of compliance. The process for filing by electronic transmission does not require agency approval, application, or any special equipment, supplies, labor, or professional services. The proposed rules define "electronic transmission" as including, but not limited to, email, web portal, fax, or other similar methods. The technology for electronic transmission, such as email or fax, is readily available to all businesses throughout the state. Therefore, sending documents to a board specified location through electronic transmission would not impose any new or increased costs of compliance on businesses that choose to do so.

With respect to service of documents, the proposed rules would provide the agency with the option to send documents by electronic transmission to the business's email address specified in the agency's records. Businesses would not be required to receive documents by electronic transmission, change any existing practices, or adopt any new technologies in order to receive documents from the agency. The agency would continue to serve documents to businesses that do not have an email address using existing non-electronic methods, such as by mail or in-person.

For these reasons, the agency estimates that the cost of compliance with the proposed rules is \$0. Businesses potentially impacted by the proposed rules include any business that files documents with the agency or is served documents by the agency, including but not limited to licensees, permit holders, and any other interested parties. Since the estimated cost of compliance (\$0) is less than any possible minor cost threshold as defined by RCW 19.85.020(2), the agency does not anticipate that the rule proposal will impose more-than-minor costs on any potentially impacted businesses.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

| | |
|----------------------------|---|
| Date: May 11, 2022 | Signature: Place signature here |
| Name: David Postman | |
| Title: Chair | |

NEW SECTION

WAC 314-42-005 Electronic transmission of documents for service and filing. (1) Consistent with RCW 34.05.010, the board adopts electronic transmission as an additional means for service and filing of documents. "Electronic transmission" includes, but is not limited to, email, web portal, fax, or other similar methods.

(2) Electronic transmission is an approved method for service and filing of documents wherever terms such as, but not limited to, "delivery," "service," "filing," "notice," "notification," "request," "letter," "in writing," "submit," and "received" are used throughout Title 314 WAC.

(3) Service. Documents will be sent by electronic transmission to a person's email address as specified in the board's records. The date and time indicated on the electronic transmission from the board shall be evidence of the date and time of delivery.

(4) Filing. Documents received by electronic transmission to a board specified location will be deemed filed with the board the same day, excluding Saturdays, Sundays, and legal holidays. The deadline for documents filed with the board will be based on the date and time indicated on the filing document. If no specific time is indicated, the deadline will be 11:59 p.m. of the date indicated. The date and time indicated on the electronic transmission shall be evidence of the date and time of receipt.



Feedback requested on Electronic Service and Filing Conceptual Draft Rules

Washington State Liquor and Cannabis Board sent this bulletin at 04/11/2022 11:33 AM PDT

Having trouble viewing this email? [View it as a Web page.](#)



April 11, 2022

The Washington State Liquor and Cannabis Board (WSLCB) is seeking public feedback on conceptual draft rules related to service and filing of documents by electronic transmission.

Background

On February 2, 2022, the WSLCB filed a preproposal statement of inquiry (CR 101) to consider creating rules to allow the WSLCB to serve documents electronically and accept documents filed electronically. For more information, see:

- [Notice to Stakeholders](#)
- [Memorandum](#)
- [CR 101 Filed as WSR 22-05-001 on February 2, 2022](#)

The WSLCB invites and encourages feedback on electronic service and filing conceptual draft rules, located at the following link: [Conceptual Draft Rules WAC 314-42-005](#).

This is not a rule proposal. These conceptual draft rules are designed for discussion only. All feedback will be considered before a rule proposal (CR 102) is developed.

How to Provide Feedback

Please email feedback to rules@lcb.wa.gov by **April 25, 2022**.

More information about the rulemaking process is available on the WSLCB current [rulemaking activity webpage](#).

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CR 101 Public Comment Table—Electronic Transmission of Documents for Service and Filing

This table includes comments received related to the [CR 101 filed as WSR 22-05-001 on February 2, 2022](#). Although no public comments were received during the initial CR 101 public comment period from February 2, 2022, to March 18, 2022, the comments below were received in response to an [April 11 GovDelivery message](#) requesting public feedback on conceptual draft rules by a deadline of April 25.

| | Name | Date Received | Comment |
|----|--------------|----------------|--|
| 1. | Lukas Hunter | April 14, 2022 | <p><u>Email received April 14, 2022—Direct quotation included below (highlights and emphasis from the original):</u></p> <p>“Good afternoon, Glad to see this section of rule to get updated, more so modernized. I wanted to illuminate an issue we have faced here at Harmony with contact information and challenges with updating contact information with the WSLCB. Under section 3 of the proposed rule language:</p> <p><i>(3) Service. Documents will be sent by electronic transmission to a person’s email address as specified in the board’s records. The date and time indicated on the electronic transmission from the board shall be evidence of the date and time of delivery.</i></p> <p>We have experienced multiple instances where we were not notified correctly during licensing change requests, appeal processes, and AVN’s because our contact information at the WSLCB was not updated. Now I see how this could be easily addressed through policy and not rule, but I thought it would be good to illuminate as we move towards electronic transmission. Our frustration comes from multiple attempts to update our contact information, with verbal and written conformation of correction, however there has been a track record of our contact information with the board never getting officially changed.</p> <p>What I am expressing is a need for a better documented way for licensees (or other entities who interact with the Board) to submit a request to change of contact information, to assure contact information is accurate for both parties.</p> <p>-Thanks and we are appreciative of this rulemaking project and the ease of accessibility and workflow it will bring,</p> <p>Lukas S. Hunter”</p> |

| | | | |
|----|--|-------------------|--|
| 2. | Katie Doyle, Washington Food Industry Association | April 15, 2022 | <p><u>Email received April 15, 2022—Direct quotation included below:</u></p> <p>“Hi Audrey,</p> <p>I hope new momma life is everything you dreamed of and more! Our team has a few questions on this rulemaking.</p> <ol style="list-style-type: none"> 1. What issue is this attempting to address? 2. What kinds of documents will this rule be addressing? Just licensing? Violations? 3. Will the electronic docs be in place of paper or in addition to? <p>It seems pretty straightforward and like we would not have issues, but I thought I would ask all the questions before we engage.</p> <p>Thanks! Katie</p> <p>Katie Doyle Washington Food Industry Association”</p> |
| 3. | Josh McDonald, Washington Wine Institute | April 18, 2022 | <p><u>Email received April 18, 2022—Direct quotation included below:</u></p> <p>“Good morning – Please count me in as interested in the CR 101 filed last week to consider creating rules to allow the WSLCB to serve documents electronically and accept documents filed electronically. Thank you for the opportunity to be a part of the process.</p> <p>Best</p> <p>Josh McDonald Executive Director WA Wine Institute”</p> |