



Washington State
Liquor and Cannabis Board

Date: July 06, 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, Deputy Director
Justin Nordhorn, Director of Policy and External Affairs
Becky Smith, Director of Licensing and Regulations
Chandra Brady, Director of Education and Enforcement
Jim Morgan, Chief Financial Officer
Kathy Hoffman, Policy and Rules Manager

Subject: Request for adoption of final rules (CR 103) regarding electronic transmission of documents for service and filing.

The Policy and Rules Coordinator requests that the Board adopt the final rules and approve the CR 103 to create a new rule section WAC 314-42-005, related to electronic transmission of documents for service and filing.

The Board has been briefed on the rule development background for this rulemaking project. No public comments were received during the formal public comment period. A CR 103 memorandum, CR 103P form, Concise Explanatory Statement, and rule text are attached.

If approved, the Policy and Rules Coordinator will file the rules with the Office of the Code Reviser and send the Concise Explanatory Statement concerning this rulemaking to GovDelivery subscribers. The effective date of the rules will be 31 days after filing, or August 6, 2022.

_____ Approve _____ Disapprove _____
David Postman, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Jim Vollendroff, Board Member _____
Date

Attachments: CR 103 Memorandum
CR 103P Form
Rule Text
Concise Explanatory Statement



CR 103 Memorandum

Regarding electronic transmission of documents for service and filing.

Date: July 6, 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 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.

Rule Development

The CR 102 rule proposal was developed through a collaborative rule development process. 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.

During the initial CR 101 public comment period from February 2, 2022 to March 18, 2022, no public comments were received. However, after the agency shared conceptual draft rules publicly through GovDelivery on April 11, 2022, three comments were received. These comments, included in Attachment B to the [CR 102 memorandum](#), were neither for nor against the rulemaking—they consisted of questions, statements of interest, and operational feedback. These comments were taken into consideration as the rule proposal was developed.

On May 11, 2022, the WSLCB filed a CR 102 rule proposal (WSR# 22-11-033). During the CR 102 public comment period (May 11 through June 22, 2022), no written comments were received and no oral testimony was provided. A recording of the public hearing held during the Board meeting on June 22, 2022,

is available on the LCB website at https://lcb.wa.gov/boardmeetings/2022jun_schedule.

Rule Necessity

The final rules authorizing service and filing of documents by electronic transmission are needed to streamline and modernize business and adjudicative processes and bring a consistent approach to this issue across the agency. The agency anticipates that 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.

Description of Rule Changes

New Section WAC 314-42-005. Electronic Transmission of Documents for Service and Filing. The new rule section 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 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.

Variance between proposed rule (CR102) and final rule:

There were no changes from the proposed rules to the final rules as adopted.

Rule Implementation

Informing and Educating Persons Impacted by the Rule

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials to the rulemaking and licensee distribution lists through GovDelivery;
- Post rule adoption materials, including final rule language, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- Provide information and training on request.

Promoting and Assisting Voluntary Compliance

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rule.
- Agency leadership and staff have actively participated in rule development and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- The WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules.

Training and Informing WSLCB Staff

WSLCB staff responsible for implementing these rules are familiar with the rule changes. Internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed.
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring requests for rule language revisions or changes;
- Monitoring requests for rule interpretation.



RULE-MAKING ORDER

PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

Agency: Washington State Liquor and Cannabis Board

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: New rule section, WAC 314-42-005—Electronic transmission of documents for service and filing. The Washington State Liquor and Cannabis Board has adopted a new rule section that authorizes electronic transmission as additional means for service and filing of documents, consistent with RCW 34.05.010.

Citation of rules affected by this order:

New: WAC 314-42-005
 Repealed: None
 Amended: None
 Suspended: None

Statutory authority for adoption: RCW 66.08.030 and 34.05.010

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-11-033 on May 11, 2022 (date).

Describe any changes other than editing from proposed to adopted version: There were no changes from the proposed rules to the adopted rules.

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

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

**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:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>1</u>	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>1</u>	Amended	___	Repealed	___

Date Adopted: July 6, 2022

Name: David Postman

Title: Chair

Signature:

Place signature here

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.



Notice of Permanent Rules

Regarding electronic transmission of documents for service and filing.

This concise explanatory statement concerns the Washington State Liquor and Cannabis Board’s adoption of new rule section WAC 314-42-005—Electronic transmission of documents for service and filing.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the agency received comment.

The Washington State Liquor and Cannabis Board (WSLCB) appreciates and encourages your involvement in the rule making process. If you have questions, please contact Audrey Vasek, Policy and Rules Coordinator, at (360) 664-1758 or by email at rules@lcb.wa.gov.

Background and reasons for adopting these rules:

On February 2, 2022, the 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 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.

On May 11, 2022, the WSLCB filed a CR 102 rule proposal (WSR# 22-11-033). The rule proposal was developed through a collaborative rule development process. The rule development and stakeholder engagement process are described in more detail in the CR 103 Memorandum.

The 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.

Rulemaking history for this adopted rule:

CR 101 – filed as WSR #22-05-001 on February 2, 2022.

CR 102 – filed as WSR #22-11-033 on May 11, 2022.

Public hearing held June 22, 2022. No oral testimony was provided during the public hearing.

Public comments received on the rule proposal:

No comments were received during the formal public comment period (May 11, 2022 through June 22, 2022) for the CR 102 filed as WSR 22-11-033 on May 11, 2022. No oral testimony was provided at the public hearing. A recording of the June 22, 2022 public hearing is available on the LCB website at https://lcb.wa.gov/boardmeetings/2022jun_schedule.

Changes from Proposed Rules (CR102) to the Final Rules as Adopted:

There were no changes from the proposed rules to the final rules as adopted.