



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: **October 18, 2017**
TIME: **10:47 AM**

WSR 17-21-111

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

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 17-05-038 ; 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) WAC 314-20-001 Definitions; WAC 314-20-015 Licensed brewers; WAC 314-20 017 Brewery and microbrewery retail liquor licenses; WAC 314-20-018 Farmer's market beer and wine sampling; WAC 314-20-020 Beer labels; WAC 314-20-030 Packages; WAC 314-20-055 Microbrewery warehouse license; WAC 314-20-090 Cash sales; WAC 314-20-092 Microbrewery alternating proprietorships; WAC 314-20-100 Beer suppliers and distributors; WAC 314-20-110 Beer importers – principal office; WAC 314-20-120 Beer importers – warehouses; WAC 314-20-170 WAC 314-20-170 Holders of certificate of approval; WAC 314-20-260 Consumer orders, internet sales and delivery for domestic brewery and microbrewery licensees; WAC 314-24-001 Definitions; WAC 314-24-003 Standards of identity for wine; WAC 314-24-006 Substandard wines prohibited; WAC 314-24-008 Application procedure for domestic wineries; WAC 314-24-040 Wine labels – federal COLA required; WAC 314-24-060 Quality standards; WAC 314-24-070 Domestic wineries; WAC 314-24-080 Containers; WAC 314-24-090 Wine labels; WAC 314-24-100 Domestic wineries; WAC 314-24-105 Application procedure – Wine distributor's or importer's license; WAC 314-24-105 Wine importers – requirements; WAC 314-24-117 Wine certificate of approval; WAC 314-24-120 Importation of foreign wine; WAC 314-24-160 Domestic wineries – retail sales of wine on winery premises; WAC 314-24-161; Domestic wineries – additional locations; WAC 314-24-162 Domestic winery alternating proprietorships; WAC 314-24-190 Wine suppliers and distributors; WAC 314-24-220 Licensing and operation of a bonded wine warehouse; WAC 314-24-260 Consumer orders, internet sales and delivery for domestic winery licensee; WAC 314-24-265 Defining wine of a winery's own production; WAC 314-28-030 What does a distillery license allow?; WAC 314-28-050 What does a craft distillery license allow?; WAC 314-28-070 What are the monthly reporting and payment requirements for a distillery and craft distillery license?; WAC 314-28080 What if a distillery or craft distillery licensee fails to report or pay or reports or paus late?; WAC 314-222228-090 Distilleries or craft distillers – selling out of state; WAC 314-28-100 Consumer orders, internet sales and delivery for distillery and craft distillery licensees; WAC 314-28-210 Return of spirits by retailer; WAC 314-28-220 Bonded and non-bonded spirits warehouse.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 29, 2017	10:00 am	3000 Pacific Ave SE, Olympia, WA	

Date of intended adoption: December 13, 2017 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Karen McCall
Address: PO Box 43098, Olympia, WA 98504
Email: rules@lcb.wa.gov
Fax: 360-664-9689
Other:
By (date) November 29, 2017

Assistance for persons with disabilities:

Contact Karen McCall
Phone: 360-664-1631
Fax: 360-664-9689
TTY:

Email: rules@lcb.wa.gov

Other:

By (date) November 29, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules implement Non-Retail liquor license legislation passed in the 2017 legislative session. As part of the Liquor and Cannabis Board's on-going rules review process, rules are being reviewed for relevance, clarity, and accuracy.

Reasons supporting proposal: Non-retail liquor licensees need to know the requirements for new licenses and legislation passed in the 2017 legislative session. Existing rules need to be reviewed for relevance, clarity, and accuracy.

Statutory authority for adoption: RCW 66.24.170; RCW 66.24.640; RCW 66.24.695; RCW 66.08.030

Statute being implemented: RCW 66.24.170; RCW 66.24.640; RCW 66.24.695

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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: Coordinator	Karen McCall, Rules	3000 Pacific Ave SE, Olympia, WA	360-664-1631
Implementation: Director	Becky Smith, Licensing	3000 Pacific Ave SE, Olympia, WA	360-664-1615
Enforcement: Enforcement Chief	Justin Nordhorn,	3000 Pacific Ave SE, Olympia, WA	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 are to implement 2017 legislation and the review of rules does not require any additional fees or reporting.

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:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input checked="" type="checkbox"/> 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. _____
- 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: October 18, 2017

Name: Jane Rushford

Title: Chair

Signature:



AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-20-001 Definitions. (~~((Per RCW 66.04.010(2), an "authorized representative" means a person who:~~

~~(1) Is required to have a federal basic permit issued by the alcohol and tobacco tax and trade bureau;~~

~~(2) Has its business located in the United States outside of the state of Washington;~~

~~(3) Acquires ownership of beer that is produced anywhere outside Washington by a brewery who does not distribute those brands for transportation into and resale in the state of Washington;~~

~~(4) Is appointed by the brewery referenced in subsection (3) of this section as its authorized representative for marketing and selling its products within the United States or within Washington state, in accordance with a written agreement between the authorized representative and the brewery.))~~ (1) The following terms are defined in RCW 66.04.010:

(a) Authorized representative;

(b) Beer;

(c) Beer distributor;

(d) Beer importer;

(e) Brewer or brewery;

(f) Domestic brewery;

(g) Flavored malt beverage;

(h) Malt beverage and strong beer; and

(i) Sale and sell.

(2) COA means certificate of approval.

(3) COLA means certificate of label approval issued by TTB.

(4) Contract production is defined in RCW 66.24.244.

(5) Domestic brewery alternating proprietorship means two or more entities taking turns using the same space and equipment to produce beer.

(6) TTB means the Alcohol Tax and Trade Bureau: U.S. Code - Title 27 of the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-20-015 Licensed brewers—Retail sales of beer on brewery premises—Beer served without charge on premises—Spirit, beer and wine restaurant operation. (1) A licensed brewer may sell:

(a) Beer of its own production at retail on the brewery premises;

(b) Beer produced by another microbrewery or a domestic brewery for on- and off-premises consumption from its premises as long as the other breweries brands do not exceed twenty-five percent of the microbrewery's on-tap offering of its own brands. Beer not of its own production must be purchased through normal distribution channels; and

(c) Cider produced by a domestic winery. Cider must be purchased through normal distribution channels.

(2) In selling beer and/or cider at retail, as provided in subsection (1) of this section, a brewer shall conduct such operation in

conformity with the statutes and regulations applicable to holders of such beer and/or wine retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A brewer may serve its own beer and beer not of its own production without charge on the brewery premises, as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this section. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

(7) A brewery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the brewery premises that is not of its own production except as set forth in subsection (1) of this section pursuant to RCW 66.24.244.

(8) Licensed beer manufacturers and their employees may:

(a) Sample beer of their own manufacture for manufacturing, evaluating, or pricing product in areas where the public is not served so long as the licensee employee does not become apparently intoxicated; and

(b) The licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

WAC 314-20-017 Brewery and microbrewery retail liquor licenses—Selling kegs and containers. A brewery or microbrewery licensed under RCW 66.24.240 or 66.24.244 may hold up to two retail liquor licenses to operate a spirits, beer, and wine restaurant, a tavern, a beer and/or wine restaurant, or any combination thereof.

(1) Definitions. ~~((a))~~ For the purposes of this section, a "container" is a sealable receptacle, such as a carton, jug, growler or keg, and has no minimum holding requirement. A "keg" is a container holding four gallons or more beer.

~~((b) "Malt liquor" is a specific type of "beer" (as explained in RCW 66.04.010).~~

~~(c) "Beer" includes malt liquor and flavored malt beverages (as explained in RCW 66.04.010).~~)

(2) Applicable to retail licenses for spirits, beer, and wine restaurants, beer and/or wine restaurants, and taverns.

(a) A retail license is separate from a brewery or microbrewery license.

(b) All containers of beer must be sold from the retail premises.

(c) A retail location may be located on or off the brewery or microbrewery premises.

(3) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell containers of beer of its own production and cider as defined in RCW 66.24.210(6) without a kegs-to-go endorsement provided that it sells this beer and cider for off-premises consumption only. A brewery or microbrewery may supply the container or use a container brought to the premises by a customer, and filled at the tap at the time of sale.

(4) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell kegs of malt liquor of another brewery's or microbrewery's production provided that it:

(a) Sells this malt liquor for off-premises consumption only;

(b) Has a kegs-to-go endorsement; and

(c) Supplies the kegs.

(5) A tavern or beer and/or wine restaurant that is operated by a brewery or microbrewery and has an off-premises beer and wine retailer's privilege may:

(a) Sell kegs of malt liquor for (~~either on premises or~~) off-premises consumption. The malt liquor may be of the licensee's own production or the production of another brewery or microbrewery;

(b) Sell containers of beer for (~~either on premises or~~) off-premises consumption provided that the customer supplies the container. The beer may be of the licensee's own production or the production of another brewery or microbrewery; and

(c) Sell containers of cider as defined in RCW 66.24.210(6) for off-premises consumption in a sanitary container brought to the premises by the customer or provided by the licensee and filled at the tap at the time of sale, provided the licensee has a license to sell wine. The licensee must comply with federal regulations.

AMENDATORY SECTION (Amending WSR 14-03-084, filed 1/16/14, effective 2/16/14)

WAC 314-20-018 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell sealed bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least forty-two inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor control board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor control board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-20-020 Beer labels—Certificate of label approval required—Labels to be submitted. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, (~~shall have obtained from the board a certificate of label approval for such beer.~~

~~(2) A request for certificate of label approval must be submitted on a form prescribed by the board which is))~~ submitted to the board, one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

~~((3))~~ (2) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

~~((4))~~ (3) No label shall be used that is misleading.

~~((5))~~ (4) Every producer, importer, distributor of beer, or beer certificate of approval holder shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

((+6)) (5) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

((+7)) (6) For strong beer, the label must contain the beer's alcohol content, stated in terms of percentage of alcohol by volume. Per RCW 66.04.010, strong beer means any malt beverage that contains more than eight percent of alcohol by weight, which is approximately ten percent of alcohol by volume.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-20-030 Packages—Classification. (1) No manufacturer, distributor, importer, or beer certificate of approval holder shall sell beer for use in the state of Washington in any packages or containers differing in sizes and case quantities from the manufacturer's original packages.

(2) Net contents—Packaged beer. Net contents shall be stated in a clearly legible manner on the label in fluid ounces or as follows:

(a) If less than 1 pint, in fluid ounces, or fractions of a pint;

(b) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated;

(c) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces;

(d) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces;

(e) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof;

(f) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

(3) Container size limitations—Barrels. Whole barrels (31 gallons), 1/2 barrels (15.5 gallons), 1/4 barrels (7.75 gallons), 1/6 barrels (5.16 gallons). Packaged beer—Maximum capacity for individual containers, 170 fluid ounces(~~— Provided, however, That~~). The board may, in its discretion, authorize other container and/or barrel size packages which have been approved for marketing within the United States by the Bureau of Alcohol, Tobacco, and Firearms, United States Treasury Department: Provided further, That the board may, in its discretion, authorize a brewery with spirit, beer and wine restaurant privileges to dispense beer directly from conditioning tanks/vessels to the spirit, beer and wine restaurant area provided the taxes have been paid prior to dispensing.

(4) The net contents of individual containers shall be stated on the outside of any multicontainer package where the individual container label or bottle size is not visible to the consumer at the point of purchase.

(5) Gift packages. A beer importer or beer wholesaler may prepare and sell "gift packages" consisting of containers of beer differing in case quantities from the manufacturer's original case capacities provided the tax has been paid on the previously purchased beer in accordance with RCW 66.24.290 and provided written approval by the board has been obtained.

AMENDATORY SECTION (Amending WSR 09-02-009, filed 12/29/08, effective 1/29/09)

WAC 314-20-055 Microbrewery warehouse license. (1) A licensee holding a microbrewery license under RCW 66.24.244 and acting as a distributor of its own products may apply for a microbrewery warehouse license. There is no fee for this license.

(2) A microbrewery warehouse is a premises located off the microbrewery premises that is used for the storage of their own bulk beer, finished product, and distribution of the microbrewery's own products.

(3) There may be no retail sales from the microbrewery warehouse.

(4) Microbreweries may not share warehouse space.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-20-070 Claims for defective keg beer—Replacement of overaged packaged beer—Procedures. (1) In the case of beer in barrels, beer which is not in salable condition due to defective beer or a defective container may be returned by the retailer to the beer distributor for a claim adjustment. The brewer or supplier may make a credit adjustment to the distributor for such claim;

(2) No claim adjustment shall be accepted unless the same shall be made by the retailer within ten days after the defect in the beer or container has been discovered;

(3) All documentary evidence relating to the claim shall be preserved by the retailer, beer distributor, brewer, or beer importer for ~~((two))~~ three years after the date of the claim;

(4) No brewer, beer distributor, or beer importer shall allow, or shall any retailer make claim for adjustment for defective keg beer unless the container or the beer is in fact defective;

(5) In the case of package beer, other than beer in barrels, beer which is not in a salable condition or overaged may be returned by a retail licensee to the beer distributor from whom the beer was purchased, provided it is immediately replaced by the beer distributor with an identical quantity, type and brand of beer ~~((: Provided further, That))~~. If the brand of beer is not presently in the beer distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee;

(6) Beer different from that ordered which has been delivered in error to a retail licensee may be returned to a beer distributor and either replaced with that beer which was ordered or a cash refund may

be made: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made;

(7) Distributors who replace unsalable or overaged packaged beer as provided in subsection (5) of this section, shall maintain complete records of all such transactions, with such records to be readily available for inspection by authorized employees of the board;

(8) Salable or unsalable beer may be returned by a retail licensee or by a governmental agency who has seized the same to the beer distributor selling such beer in the event the retailer goes out of the business of selling beer at retail, and in such case a cash refund may be made upon return of the beer, provided that consent of the board is first had and obtained;

(9) (~~Except as provided herein,~~) No other adjustment, by way of cash refund or otherwise, shall be made by the beer distributor, brewer or beer importer.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-20-090 Cash sales. No beer distributor nor brewer or beer importer holding a beer distributor's license shall sell or deliver beer to any retailer except for cash paid at the time of the delivery (~~thereof: Provided, That~~). Cash may be paid prior to the delivery of beer sold to any retailer. Failure by licensees to keep accurate accounting records which result in the extension of credit, in violation of RCW 66.28.010 through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

NEW SECTION

WAC 314-20-092 Microbrewery alternating proprietorships. (1) Microbrewery alternating proprietorship - An alternating proprietorship arrangement consists of two or more entities taking turns using the same space and equipment to produce beer.

(a) The existing microbrewery and the new microbrewery proprietorships are referred to as "hosts" and "tenants," respectively.

(i) The host agrees to rent space and equipment to a new tenant. The agreement allows the host microbrewery to use excess capacity and give new tenants an opportunity to begin production on a small scale without investing in equipment.

(ii) All production by tenants is on the microbrewery premises and may not enter into a production contract with any brewery or microbrewery.

(b) Two or more microbreweries may establish independently operated microbrewery premises, mutually agreeing to alternate the use of space and equipment.

(i) No proprietorship functions as a "host" to others because each has agreed to share responsibility equally.

(ii) All production is on the microbrewery premises.

(iii) May enter into contractual production as a contractee under WAC 314-20-095.

(c) Alternating proprietorships must be approved by the board's licensing division through an application and approval process and must meet TTB requirements.

(d) A microbrewery premises may not be used by or shared with any other party unless the necessary alternating proprietorship applications have been approved by the board's licensing division.

A microbrewery may be approved to alternate with a domestic winery if they are owned by the same licensed entity.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-20-100 Beer suppliers and distributors. RCW 66.28.180 requires beer distributors and suppliers to maintain all current and prior price lists at its liquor licensed location.

(1) **Definitions((—))** — For the purposes of this chapter:

(a) A "price list" means a declaration of the prices at which any and all brands of beer and any and all packages within a brand are to be sold by the person maintaining the list. Distributors must maintain a price list showing all such prices for sales to retailers. Each manufacturer functioning as a distributor must maintain a price list showing all such prices for sales to retailers as well as showing such prices for sales to distributors. The price list will contain the wholesale prices at which any and all brands of beer sold by the supplier or distributor shall be available to retailers within the state.

(b) A "beer supplier" means a microbrewery, domestic brewery, certificate of approval holder, beer importer, beer distributor acting as the first United States importer, or a distributor selling beer to another distributor.

(c) A "beer distributor" means a distributor selling to a retailer, a domestic brewery acting as a distributor, a microbrewery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling beer of its own production to a retailer.

(d) Third-party delivery is prohibited.

(2) **Products and price lists((—))** — If a beer supplier or distributor lists selected items on which prices are temporarily reduced, these prices must clearly reflect all items and the selling price. All products must be made available to all retail licensees to the extent it is reasonably practical to do so and all retail licensees must be given reasonable notice of all prices and price changes.

(3) **Distributor changes((—))**

(a) The following guidelines apply when a beer supplier makes a distributor change outside of the regular distributor appointment timelines. The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

(b) A beer supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party.

(4) **Price lists for new distributors(~~(—)~~)** - When the board issues a new beer distributor license, the licensee must have a price list available.

(5) **Accommodation sales(~~(—)~~)** - The provisions of this rule do not apply when a beer distributor makes an accommodation sale to another beer distributor and this sale is made at a selling price that does not exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the distributor purchasing the beer is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

AMENDATORY SECTION (Amending Rule 50, filed 6/13/63)

WAC 314-20-110 Beer importers—Principal office. Each beer importer shall keep the board informed at all times of the location of the principal office required by section 23-G, subdivision (2) of the Washington State Liquor Act (RCW 66.24.260) and shall, not less than two days prior thereto notify the board in writing (~~(or by telegraph)~~) of any change in the location of such office.

NEW SECTION

WAC 314-20-260 Consumer orders, internet sales, and delivery for domestic brewery and microbrewery licensees. (1) A domestic brewery and microbrewery licensee may accept orders for beer from, and deliver beer to, customers.

(a) Beer shall not be for resale.

(b) Beer must come directly from a licensed domestic brewery or microbrewery possession.

(c) Beer may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(2) Sales and payment.

(a) Only a domestic brewery or microbrewery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a domestic brewery or microbrewery licensee, except for transmittal of payment through a third-party service. The use of internet or mobile application for retail customers to purchase alcohol in Washington state is allowed under the following conditions:

(i) The internet sale will be made by the domestic brewery or microbrewery;

(ii) The payment for the sale will be processed by the domestic brewery or microbrewery; and

(iii) The domestic brewery or microbrewery pays the owner of the internet or mobile application a service fee.

(b) All orders and payments shall be fully processed before beer transfers ownership or, in the case of delivery, leaves a licensed domestic brewery's or microbrewery's possession.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account.

(d) Internet. To sell wine via the internet, a domestic brewery or microbrewery applicant must request internet sales privileges from the board prior to beginning internet sales.

(3) Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(4) Beer may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(5) Age requirement.

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(6) Delivery of liquor is prohibited to any person who shows signs of intoxication.

(7) Beer must be sold in original containers.

(8) Packages delivered by a third party must have language stating that:

(a) The package contains liquor;

(b) The recipient must be twenty-one years of age or older; and

(c) Delivery to intoxicated persons is prohibited.

(9) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(a) Name of the purchaser;

(b) Name of the person who accepts delivery;

(c) Street addresses of the purchaser and the delivery location; and

(d) Time and date of purchase and delivery.

(i) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(ii) A sales record does not have to include the name of the delivery person, but it is encouraged.

(10) When selling over the internet, all web site pages associated with the sale of liquor must display the domestic brewery or microbrewery licensee's registered trade name.

(11) A domestic brewery or microbrewery licensee shall be accountable for all deliveries of liquor made on its behalf.

(12) The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-20-120	Beer importers—Warehouses.
WAC 314-20-170	Holders of certificates of approval.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-24-001 Definitions. (~~((Per RCW 66.04.010(2), an "authorized representative"~~ means a person who:

~~(1) Is required to have a federal basic permit issued by the alcohol and tobacco tax and trade bureau;~~

~~(2) Has its business located in the United States outside of the state of Washington;~~

~~(3) Acquires ownership of wine that is produced anywhere outside Washington by a winery which does not distribute those brands for transportation into and resale in the state of Washington;~~

~~(4) Is appointed by the winery referenced in subsection (3) of this section as its authorized representative for marketing and selling its products within the United States or within Washington state, in accordance with a written agreement between the authorized representative and the winery.))~~ (1) The following terms are defined in RCW 66.04.010:

(a) Authorized representative;

(b) Domestic winery;

(c) Manufacturer;

(d) Package;

(e) Sale and sell;

(f) Wine;

(g) Wine distributor;

(h) Wine importer; and

(i) Winery.

(2) COA means certificate of approval.

(3) COLA means certificate of label approval.

(4) Custom crush - A custom crush arrangement involves an agreement or formal contract where one domestic winery (customer) pays another domestic winery (producer) to produce wine to order. (It is not an alternating proprietorship arrangement.)

(5) Domestic winery alternating proprietorship - Two or more entities taking turns using the same space and equipment to produce wine.

(6) TTB means the Alcohol and Tax and Trade Bureau.

U.S. Code - Title 27 of the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 85-19-030, filed 9/12/85)

WAC 314-24-003 Standards of identity for wine. (~~((1))~~) Application of standards. The standards of identity for ~~((the several))~~ all classes and types of wine shall meet the standards set forth ~~((herein shall be))~~ by TTB and is applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for all wine ~~((s of the several))~~ classes and types defined.

~~((2))~~ Standards of identity. The several classes and types of wine set forth herein shall be as follows:

~~(a)~~ Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including

pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 C.F.R. part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 C.F.R. part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

~~(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.~~

~~(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.~~

~~(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.~~

~~(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.~~

~~(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.~~

~~(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne —bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."~~

~~(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.~~

~~(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.~~

~~(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.~~

~~(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.~~

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(g) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 C.F.R. part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 C.F.R. part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 C.F.R. part 240.

(3) Grape type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products grown in the place or region indicated by such appellation; and

~~(b) It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.~~

~~(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.~~

~~For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.~~

~~(6) Grape type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal Regulations, Part 4.)~~

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-24-006 Substandard wines prohibited. Application of this regulation. The production, importation or sale of, wine, which fails to conform to the standards prescribed (~~in regulation (57) hereof~~) by TTB, or of any wine fermented from raisins, dried fruits, or dried berries, or of any imitation or substandard wine as herein-after defined, is hereby prohibited.

(1) Imitation wine shall include:

(a) Any wine containing synthetic materials;

(b) Any wine made from a mixture of water with residues remaining after thorough pressing of grapes, fruit or other agricultural products;

(c) Any class or type of wine, the taste, aroma, color or other characteristics of which have been acquired in whole or in part by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of such class or type are acquired without such treatment; or

(d) Any wine made from "must" concentrated at any time to more than 80 degrees (Balling).

(2) Substandard wine shall include:

(a) ~~((Any wine having a volatile acidity in excess of the maximum prescribed therefor in these regulations;~~

~~(b) Any wine for which no maximum volatile acidity is prescribed in these regulations having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20 degrees C.);~~

~~(c)) Any wine for which a standard of identity is prescribed in these regulations which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard; or~~

~~((d)) (b) Wine of any class or type containing added water, or sugar and water solution, in excess of the quantities expressly authorized for standard wine made from the same kind or kinds of materials as prescribed ((in regulation (57)) by TTB.~~

(3) Coined names:

(a) The sale in this state of wines, identified on labels or in advertisements by a type of brand designation which implies mixtures of wines for which standards of identity are established in these regulations, or which identifying type or brand designation resembles an established wine type name such as Angelica, Madeira, Muscatel, Port, White Port, Sherry, Tokay, Sauterne, Claret, Burgundy, etc., is hereby prohibited.

(b) The sale in this state of wine or combinations of wine and other alcoholic beverages which contain on the label statements such as whiskey wine, rum and wine, gin and wine, beer and wine, etc., or simulations of such combinations, is hereby prohibited.

(4) Containers:

(a) The sale of wine in any container originally designed for a product other than wine or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents, is hereby prohibited.

(b) The sale of wine in containers which have blown, branded or burned therein the name or other distinguishing mark of any person engaged in business as a wine producer, importer, distributor, or bottler or any other person different from the person whose name is required to appear on the brand label, is hereby prohibited.

NEW SECTION

WAC 314-24-008 Application procedure for domestic wineries. (1) There shall be a license for domestic wineries pursuant to RCW 66.24.170. Applications for a domestic winery shall be accompanied by information the board may request including, but not limited to:

(a) A floor plan showing the complete winery premises, including the production, storage, public tasting areas, office, and other spaces.

(b) A written description of the proposed method of production with appropriate documentation indicating the winery will be producing wine on the licensed premises.

(2) The domestic winery shall be physically separated from any other use as prescribed by the board.

(3) Provide the board with a copy of an approved producer/blender TTB permit.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-24-040 Wine labels—Federal certificate of label approval required—Labels to be submitted. (1) No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have submitted to the board:

(a) The federal certificate of label approval for such wine which has been issued by the (~~Tax and Trade Bureau, U.S. Treasury Department~~) TTB; and

(b) One label of the brand and type for which tracking is requested for wines under seven percent alcohol by volume.

(2) Any change in label or product which requires reissuance of federal approval under the (~~provisions of 27 C.F.R. Part 4~~) TTB, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) Every producer, importer, bottler, distributor, or wine certificate of approval holder shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the quality standards set by the board in WAC 314-24-060 and conforms with commercial standards.

(4) No label shall be used that is misleading.

(5) No label shall be used that is designed to be appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(6) Wineries are not required to submit labels for tracking to the board for wine sold directly to Washington consumers under a direct shipper's permit. Wine labels may not be misleading and may not be designed to appeal especially to persons under the age of twenty-one.

AMENDATORY SECTION (Amending WSR 88-11-009, filed 5/10/88)

WAC 314-24-060 Quality standards. All wines of the types and classes hereinafter set forth sold in the state of Washington shall meet the (~~following~~) minimum requirements set by TTB.

((Acid content:

(1) Volatile acids:

(a) Red table wines Not over 0.14%,
exclusive of sulfur dioxide, calculated as
acetic acid.

(b) All other wines Not over 0.12%,
exclusive of sulfur dioxide, calculated as
acetic acid.

- (e) ~~Exception A higher volatile acidity level is permitted of 0.15 grams per 100 milliliters for white wine and 0.17 grams per 100 milliliters for red wine produced from unameliorated juice having a minimum solids content of 28 degrees Brix.~~

(2) Fixed acids:

- (a) Grape wine:
 - (i) Table wine Not less than 0.4% calculated as tartaric acid.
 - (ii) Dessert wine Not less than 0.25% calculated as tartaric acid.
- (b) Apple wine Not less than 0.15% calculated as malic acid.
- (c) Fruit wine Not less than 0.5% calculated as citric acid.
- (d) Berry wine Not less than 0.5% calculated as citric acid.

(3) Brix (balling):

- (a) Port wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (b) White port wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (c) Muscatel wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (d) Tokay wine Minimum of 3.5 Brix at 20 degrees centigrade.
- (e) Dry sherry wine Under 0.5 Brix at 20 degrees centigrade.
- (f) Sherry wine Under 3 Brix at 20 degrees centigrade.
- (g) Creme or sweet sherry wine Above 3 Brix at 20 degrees centigrade.

~~(4) Sulfur dioxide: Maximum of 350 parts per million total.~~

~~(5))~~ (1) Preservatives: No wines shall contain preservatives such as benzoic acid, salicylic acid or monochloroacetic acid, or their derivatives except that wines classified as specialty wine in accordance with WAC 314-24-003 (~~((2)(w))~~) may use benzoic acid or its derivatives if such use has been approved by the United States Food and Drug Administration.

~~((6))~~ (2) Stability: All wines shall be free from precipitates, colloidal matter, metallic casse, haze due to yeast, bacteria, tartrates, or other causes as determined by usual stability tests: Provided, however, That sediment may be allowed at the discretion of the board when it occurs in accordance with commercial standards commonly accepted by trade designations as normal and indicative of the wine's composition.

AMENDATORY SECTION (Amending WSR 14-06-109, filed 3/5/14, effective 4/5/14)

WAC 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine

returned to Washington. (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in RCW 66.24.140, or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1) of this section, and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced and bottled in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity, a licensed wine distributor or bonded wine warehouse.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor control board.

(e) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must keep on file for audit purposes clear source records (shipping documents, etc.) with reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-24-080 Containers—Sizes and types permitted. (1) All wine sold for consumption in the state shall be sold in packages or container sizes approved by the (~~Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department~~) TTB for marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(2) No domestic winery or wine distributor, or wine importer shall adopt or use any packages for wine differing in sizes and case capacities from: Manufacturer's original full cases. The board may, in its discretion, authorize other container and/or keg size packages it deems appropriate.

(3) Wine referred to in subsections (1) and (2) of this regulation may also be packaged and sold in metric standards of fill and in case sizes as are established in 27 Code of Federal Regulations (~~7 to wit: 3 liters (101 fl. oz.) 4 bottles per case; 1.5 liters (50.7 fl. oz.) 6 bottles p/c; one liter (33.8 fl. oz.) 12 bottles p/c; 750 milliliters (25.4 fl. oz.) 12 bottles p/c; 375 milliliters (12.7 fl. oz.) 24 bottles p/c; 187 milliliters (6.3 fl. oz.) 48 bottles p/c; 100 milliliters (3.4 fl. oz.) 60 bottles p/c~~). Wine may be bottled or packed in containers of four liters or larger if the containers are filled and labeled in quantities of even liters.

(4) Wine imported from foreign countries may be packaged and container sizes approved by the (~~Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department~~) TTB for marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(5) For taxing purposes and in all reports to the board, the (~~above~~) approved enumerated designations of package sizes, and no others, shall be used.

AMENDATORY SECTION (Amending WSR 87-21-036, filed 10/13/87)

WAC 314-24-090 Wine labels. (1) Every package or container of wine intended for sale within the state of Washington shall bear a label in compliance with RCW 66.28.110. Such label shall show:

- (a) The brand name of the wine.
- (b) Class, type or other designation.

(c) The name and address of the bottler or packager, which shall be stated as follows "Bottled by" Where a bottler or packager has made not less than 75% of the wine in a particular package or container by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, there may be stated in lieu of the words "bottled by" the words "manufactured and bottled by" or "produced and bottled by." In addition to the name and address of the bottler or packager, but not in lieu thereof, there may be stated the name and address of the manufacturer or producer.

(d) The alcoholic content of the wine by volume, stated as provided in either (i) or (ii) of this subsection:

- (i) "Alcohol % by volume."

(ii) "Alcohol % to % by volume."

(e) The net contents of the package or container: Provided, That the net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the package or container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been (~~submitted to, and has received a written approval of, the board (see WAC 314-24-040))~~ approved by TTB and submitted to the board. For labels not requiring federal COLA, a form prescribed by the board shall be completed and submitted to the board for approval.

(3) No label shall be used that is misleading.

AMENDATORY SECTION (Amending WSR 86-11-014, filed 5/13/86)

WAC 314-24-100 Domestic wineries—Responsibility for fruits used—Records. Every domestic winery shall keep proper records as required by (~~the Bureau of Alcohol, Tobacco and Firearms, United States Treasury Department~~) TTB, in a form approved by the board showing the place of origin and/or purchase of all fruits and fruit products used by such winery in the manufacture of wine, which records shall be kept at the office of such winery for a minimum of three years and available at all times for inspection by the board.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-24-105 Application procedure—Wine distributor's or importer's license. Any person making application for a new wine distributor's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board to include a copy of an approved wholesaler permit issued by TTB, and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

AMENDATORY SECTION (Amending Order 26, filed 8/14/73)

WAC 314-24-115 Wine importers—Requirements. (1) Principal office: Each wine importer shall keep the board informed at all times of

the location of the principal office required by the Washington State Liquor Act and shall, not less than ~~((two))~~ thirty days prior thereto notify the board in writing ~~((or by telegraph))~~ of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall ~~((at all times keep))~~ have the location approved by the board ~~((advised of the location of such warehouses))~~.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor control board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

AMENDATORY SECTION (Amending WSR 06-11-051, filed 5/11/06, effective 6/11/06)

WAC 314-24-117 Wine certificate of approval ((fee)). (1) ~~((The fee for a wine certificate of approval license is \$200 per year.))~~ The certificate of approval holder must pay the ~~((\$200))~~ fee for each privilege as described below:

(a) Manufacturer of wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

(b) Authorized representative for wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

(c) Authorized representative for wine produced outside of the United States, shipping wine to licensed Washington wine distributors or importers.

(2) A certificate of approval holder under RCW 66.24.206 (1)(a) may add an endorsement to the certificate of approval that allows the holder to ship wine of the holder's own production directly to licensed liquor retailers. The fee ~~((for this endorsement is \$100 and))~~ is in addition to the fee required for a certificate of approval license.

AMENDATORY SECTION (Amending WSR 12-24-091, filed 12/5/12, effective 1/5/13)

WAC 314-24-120 Importation of foreign wine—United States wine-ries—Reports—Records. (1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer or distributor under the following conditions:

(a) The wine importer or distributor importing such wine must obtain label approval in accordance with WAC 314-24-040. Such wine shall

be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(b) All matters pertaining to the importation, transportation, storage, keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(2) Holders of certificate of approval—United States wineries, located outside of Washington state. Except as authorized in WAC 314-24-117, each winery holding a certificate of approval may ship wine to licensed wine importers and/or distributors only. (~~As required by section 10, chapter 21, Laws of 1969 ex. sess., and~~) By the written agreement embodied in the application for certificate of approval, each winery holding a certificate of approval shall file the report(s) required by WAC 314-19-015.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

WAC 314-24-160 Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Spirit, beer and wine restaurant operation. (1) A domestic winery (~~holding a proper retail license, pursuant to chapter 66.24 RCW,~~) may sell wine of its own production at retail on the winery premises.

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.295, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A domestic winery may serve its own wine and wine not of its own production without charge on the winery premises as authorized by RCW 66.28.295(2).

(6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

(7) A domestic winery may sell for off-premises consumption wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee in compliance with WAC 314-24-006(4) and filled at the tap at the time of sale.

(8) A winery is required to obtain the appropriate retail license pursuant to chapter 66.24 RCW to sell beer, wine, or spirits on the winery premises that is not of its own production. The winery shall follow the appropriate rules for such retail licenses.

(9) Licensed wine manufacturers and their employees may: Sample wine of their own manufacture for manufacturing, evaluating, or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee is not also engaged in serving alcohol to the public.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

WAC 314-24-161 Domestic winery—Additional locations for retail sales only. A licensee holding a domestic winery license under RCW 66.24.170 may apply for ~~((two))~~ four additional location licenses.

(1) Wine-related retail activities allowed at an additional location include:

(a) Serving of samples provided with or without charge to customers (must be wine of the winery's own production). Samples are subject to taxes under WAC 314-19-015 (4)(b);

(b) Selling wine of the winery's own production for either on-premises or off-premises consumption;

(c) Selling for off-premises consumption wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale; and

(d) Renting space for public and private events, such as catered events (subject to all of the provisions of this section, to Title 66 RCW covering the "tied house" restrictions, and to RCW 66.24.320 and 66.24.420).

(2) A licensee may request approval for an outside designated area. For the purpose of this section, an "outside designated area" means a specific area located on an outside track of land where alcohol consumption is allowed.

(a) An outside designated area must have prior written approval from the board's licensing division.

(b) The outside designated area shall be marked as such, and shall be enclosed in accordance with WAC 314-02-130(1).

(c) The outside designated area shall be on the licensed premises.

(3) Anyone involved in the selling or serving of wine, including the pouring of samples, at an additional location for on-premises consumption must obtain a Class 12 or Class 13 alcohol server permit.

(4) A winery additional location may hold a beer and wine restaurant license at the additional location premises under the following conditions:

(a) The licensee must apply for a beer and wine restaurant license with fees for the additional location:

(i) If a location is shared with multiple wineries not of the same entity, violations will be addressed per the requirements of RCW 66.24.170(4).

(ii) Where the location is shared with multiple wineries, the applicant will include in their application a list of other license holders at that location as well as a sketch illustrating the location of each licensee.

(iii) The licensee applying for the retail license must provide a letter from each winery sharing the additional location that acknowledges and accepts the conditions in (a)(i) of this subsection.

(b) The licensee must abide by all laws and rules of the retail license(and

~~(c) No free samples are allowed on the retail portion of the premises)).~~

NEW SECTION

WAC 314-24-162 Domestic winery alternating proprietorships. (1) Domestic winery alternating proprietorship - An alternating proprietorship arrangement consists of two or more entities taking turns using the same space and equipment to produce wine.

(a) The existing domestic winery and new winery are sometimes informally referred to as "hosts" and "tenants" respectively.

(i) The host agrees to rent space and equipment to a new tenant. Such an agreement allows the host winery to use excess capacity and give the new tenant an opportunity to begin production on a small scale without investing in equipment.

(ii) All production by tenants is on the winery premises and may not enter into a crush agreement.

(b) In other situations, two or more domestic wineries may establish an independently operated bonded wine premises, mutually agreeing to alternate use of space and equipment.

(i) No proprietorship functions as a host to the others because each has agreed to share responsibility equally.

(ii) All production is on the winery premises.

(iii) May enter into a crush agreement as a producer.

(c) These arrangements must be approved by the WSLCB licensing through an application and approval process and must meet TTB requirements.

(d) The winery premises may not be used or shared with any other party unless the necessary alternating proprietorship application has been approved.

A domestic winery may be approved to alternate with a domestic brewery or microbrewery, if they are owned by the same licensed entity.

(2) The host and each tenant shall have separate designated areas for the storage of their product. Floor plans must be submitted and approved by the board at the time of application. Any changes must be preapproved by the board in writing.

(3) The host and each tenant may share a joint tasting area on the premises under the following conditions:

- (a) Submit floor plans for approval showing the location of the tasting area on the licensed premises.
- (b) Each licensee is responsible for their own tasting and sales.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-24-190 Wine suppliers and distributors. (1) Definitions

- For the purposes of this chapter:

(a) A "wine supplier" means a domestic winery, certificate of approval holder, wine importer, wine distributor acting as the first United States importer, or a distributor selling wine to another distributor.

(b) A "wine distributor" means a distributor selling to a retailer, a domestic winery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling wine of its own production to a retailer.

(2) **Products** - All products must be made available to all retail licensees to the extent it is reasonably practical to do so.

(3) Distributor changes:

(a) The following guidelines apply when a wine supplier makes a distributor change (~~outside of the regular distributor appointment timelines~~). The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor (~~to be effective immediately~~).

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party.

(4) **Accommodation sales** - The provisions of this rule do not apply when a wine distributor makes an accommodation sale to another wine distributor and this sale is made at a selling price that does not exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

AMENDATORY SECTION (Amending WSR 09-02-010, filed 12/29/08, effective 1/29/09)

WAC 314-24-220 Licensing and operation of bonded wine warehouses.

(1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a bonded wine warehouse licensee. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board ap-

propriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use.

(3) A bonded wine warehouse may provide storage for a domestic winery, for another bonded wine warehouse, and for a certificate of approval holder. The Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine distributor (~~or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases~~)).

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse for a period of three years.

(5) Removals of wine from a bonded wine warehouse may be made only for shipment:

(a) To a licensed independent Washington wine distributor;

(b) To another licensed bonded wine warehouse;

(c) (~~to the liquor control board;~~

~~(d)~~) Out-of-state;

(~~(e)~~) (d) For return to the producing winery;

(~~(f)~~) (e) To a producing domestic winery licensee; or

(~~(g)~~) (f) Directly to a consumer.

(i) For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents.

(ii) For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to chapter 314-44 WAC, of only one producing domestic winery at the time of removal by such agent.

(6) A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate, during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor (~~control~~) and cannabis board annually reports of the quantity of wine removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine distributors, and/or the liquor (~~control~~) and cannabis board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(~~(6)~~) (7) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(~~(7)~~) (8) "Storage and handling of bottled wine" as used in RCW 66.24.185(1) shall mean the storage and handling of wine packaged for sale at retail (i.e., other than in bulk form).

(~~(8)~~) (9) Any winery contracting with a bonded wine warehouse for direct shipments to consumers must accept and process the orders and payments. This includes, but is not limited to, in-person, mail, telephone, and internet orders and payments. Only a winery licensee or

a winery licensee's employees may accept and process such orders and payments. A contractor may not do so on behalf of a winery licensee.

~~((9))~~ (10) A bonded wine warehouse may not accept orders and payments from consumers for direct shipments.

NEW SECTION

WAC 314-24-260 Consumer orders, internet sales, and delivery for domestic winery licensees. (1) A domestic winery licensee may accept orders for wine from, and deliver wine to, customers.

(a) Wine shall not be for resale.

(b) Wine must come directly from a licensed domestic winery possession or bonded wine warehouse.

(c) Wine may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(2) Sales and payment.

(a) Only a domestic winery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a domestic winery licensee, except for transmittal of payment through a third-party service. The use of internet or mobile application for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The internet sale will be made by the winery;

(ii) The payment for the sale will be processed by the winery; and

(iii) The winery pays the owner of the internet or mobile application a service fee.

(b) All orders and payments shall be fully processed before wine transfers ownership or, in the case of delivery, leaves a licensed domestic winery's possession.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account.

(d) Internet. To sell wine via the internet, a domestic winery applicant must request internet sales privileges from the board prior to beginning internet sales.

(3) Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(4) Wine may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(5) Age requirement.

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(6) Delivery of liquor is prohibited to any person who shows signs of intoxication.

(7) Wine must be sold in original containers.

(8) Packages delivered by a third party must have language stating that:

(a) The package contains liquor;

(b) The recipient must be twenty-one years of age or older; and

(c) Delivery to intoxicated persons is prohibited.

(9) Records and files shall be retained at the licensed premises.

Each delivery sales record shall include the following:

(a) Name of the purchaser;

(b) Name of the person who accepts delivery;

(c) Street addresses of the purchaser and the delivery location;

(d) Time and date of purchase and delivery; and

(e) A private carrier must obtain the signature of the person who receives liquor upon delivery.

A sales record does not have to include the name of the delivery person, but it is encouraged.

(10) When selling over the internet, all web site pages associated with the sale of liquor must display the domestic winery licensee's registered trade name.

(11) A domestic winery licensee shall be accountable for all deliveries of liquor made on its behalf.

(12) The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

NEW SECTION

WAC 314-24-265 Defining wine of a winery's own production. A domestic winery holding a valid license in both Washington and Oregon may market and distribute wine produced in Oregon utilizing their Washington winery license as the premises for transactions if the following conditions are met:

(1) The licensee must request approval from the WSLCB to market and retail their Oregon wine at their Washington winery premises. Approval will be granted based on the documentation that demonstrates compliance with this regulation.

(2) The licensee must demonstrate a valid Oregon winery license and that the underlying ownership of the Oregon winery license is identical to the Washington winery license.

(3) Both the Washington and Oregon wineries must manufacture wine within the same TTB authorized appellation. Only wine from cross border appellations will be approved.

(4) Oregon wine to be marketed and/or sold in Washington must have the appropriate taxes paid (RCW 66.24.210).

AMENDATORY SECTION (Amending WSR 15-16-049, filed 7/29/15, effective 8/29/15)

WAC 314-28-030 What does a distillery license allow? (1) A distillery license allows the licensee to:

(a) Sell spirits of their own production directly to a licensed spirits distributor in the state of Washington and to a licensed spirits retailer in the state of Washington;

(b) Sell spirits of its own production for consumption off the premises. A distiller selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery(ies) under the following conditions:

(i) Samples may be altered with nonalcoholic mixers, mixers with alcohol of the distiller's own production, ice, and/or water.

(ii) The maximum (~~total~~) amount of alcohol per person per day is two ounces.

(iii) Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.

(d) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(2) Contract production is when one distillery, referred to as the "contractor," produces distilled spirits for and sells contract distilled spirits to holders of a distillery license, or manufacturers' license including licenses issued under RCW 66.24.520, referred to as "contractee," and for export from the state. This distilled spirit is referred to as the "product."

(a) The contractee is the product owner. The contractee may handle the product under its license as the Revised Code of Washington and the Washington Administrative Code allow.

(b) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(3) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(4) The contractor and contractee are required to obtain any federal approvals.

AMENDATORY SECTION (Amending WSR 15-16-049, filed 7/29/15, effective 8/29/15)

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce one hundred fifty thousand proof gallons or less of spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the cus-

tomers is physically present on the licensed premises. A craft distiller may not sell liquor products of someone else's production;

(c) Sell spirits of its own production to a licensed spirits distributor;

(d) Sell spirits of its own production to a licensed spirits retailer in the state of Washington;

(e) Sell to out-of-state entities;

(f) Provide, free or for a charge, samples of spirits of its own production to persons on the distillery premises ~~((--))~~ subject to the following conditions:

(i) ~~((Each sample must be one half ounce or less, with no more than two ounces of samples provided per person per day))~~ The maximum amount of alcohol per person per day is two ounces.

(ii) Samples may be altered with nonalcoholic mixers, mixers with alcohol of the distiller's own production, ice, and/or water.

(iii) Anyone involved in the serving of such samples must have a valid Class 12 alcohol server permit.

(iv) Samples must be in compliance with RCW 66.28.040;

(g) Provide samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040, 66.24.310 and WAC 314-64-08001. Samples are considered sales and are subject to taxes;

(h) Contract produce spirits for holders of a distiller or manufacturer license.

(2) A craft distillery licensee may add a spirits, beer, and wine restaurant license at the craft distillery premises. The licensee must complete an application and submit the application and applicable fees to the board for processing.

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-070 What are the monthly reporting and payment requirements for a distillery and craft distillery license? (1) A distiller or craft distiller must submit monthly reports and payments to the board.

The required monthly reports must be:

(a) On a form furnished by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board 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; and

(d) Filed separately for each liquor license held.

(2) For reporting purposes, production is the distillation of spirits from mash, wort, wash or any other distilling material. After the production process is completed, a production gauge shall be made to establish the quantity and proof of the spirits produced. The designation as to the kind of spirits shall also be made at the time of the production gauge. A record of the production gauge shall be maintained by the distiller. The completion of the production process is

when the product is packaged for distribution. Production quantities are reportable within thirty days of the completion of the production process.

(3) (~~On sales on or after March 1, 2012,~~) A distillery or craft distillery must pay ten percent of their gross spirits revenue to the board on sales to a licensee allowed to sell spirits for on- or off-premises consumption during the first (~~two years~~) twenty-seven months of licensure and five percent of their gross spirits revenues to the board in (~~year three~~) the twenty-eighth month and thereafter.

(a) (~~On sales after June 1, 2012,~~) A distillery or craft distillery must pay seventeen percent of their gross spirits revenue to the board on sales to customers for off-premises consumption.

(b) Payments must be submitted, with monthly reports, to the board on or before the twentieth day of each month, for the previous month. (For example, payment for 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, payment must be postmarked by the U.S. postal service no later than the next postal business day.

AMENDATORY SECTION (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? Failure of a distillery or craft distiller to submit its monthly reports and payment to the board as required (~~in WAC 314-28-070(1)~~) will be sufficient grounds for the board to suspend or revoke the liquor license.

Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. 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.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-090 Distilleries or craft distilleries—Selling out-of-state. What are the requirements for a craft distillery licensee to sell its spirits product outside the state of Washington?

(1) A distillery or craft distillery licensee shall include, in its monthly report to the board, information on the product it produces in-state and sells out-of-state. Information includes, but is not limited to, the amount of proof gallons sold, and for a craft distillery, the composition of raw materials used in production of the product.

(2) Product produced in-state and sold out-of-state counts toward a craft distillery licensee's (~~sixty thousand~~) one hundred fifty proof gallons per calendar year production limit (~~(see WAC 314-28-050)~~)).

(3) Product produced in-state and sold out-of-state is subject to the fifty percent Washington grown raw materials requirement for a craft distillery.

(4) A distillery or craft distillery licensee is not subject to Washington state liquor taxes on any product the licensee sells out-of-state.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-28-100 Consumer orders, internet sales, and delivery for distillery and craft distillery licensees. A distillery or craft distillery licensee may accept orders for spirits from, and deliver spirits to, customers.

(1) **Resale.** Spirits shall not be for resale.

(2) **Stock location.** Spirits must come directly from a licensed distillery or craft distillery possession.

(3) **How to place an order.** Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a spirits distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a spirits distillery or craft distillery licensee, except for transmittal of payment through a third-party service. (~~A third party service may not solicit customer business on behalf of a spirits distillery or craft distillery licensee.~~

~~(b))~~ The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The internet sale will be made by the distillery;

(ii) The payment for the sale will be processed by the distillery; and

(iii) The distillery pays the owner of the internet or mobile application a service fee.

(b) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's possession.

(c) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's or craft distillery's possession.

~~((e))~~ (d) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

~~((d))~~ (e) Internet. To sell spirits via the internet, a new spirits distillery or craft distillery license applicant must request internet sales privileges in his or her application. An existing spirits distillery or craft distillery licensee must notify the board

prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated spirits distillery or craft distillery licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the spirits distillery or craft distillery licensee's registered trade name.

(12) **Accountability.** A spirits distillery or craft distillery licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

NEW SECTION

WAC 314-28-210 Return of spirits by retailer—Replacement—Conditions. No spirits shall be returned by any retail licensee to any spirits distributor except as herein provided.

(1) Spirits which is not in a salable condition may be returned by a retail licensee to the spirits distributor from whom purchased, provided it is immediately replaced by the spirits distributor with an identical quantity, type and brand of spirits. If the brand of spirits is not presently in the spirits distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained.

(a) Every spirits distributor shall maintain on the licensed premises for a period of three years complete records of all refunds and exchanges made under this section including an inventory of unsalable spirits returned to such distributor by any retail licensee.

(b) Such unsalable spirits which requires reconditioning or destruction shall be returned by the spirits distributor to the distillery or craft distillery which manufactured or produced the same, or to the importer who imported such spirits. When spirits which has been returned to a distiller or craft distiller by any person for reconditioning or destruction has been assembled at the distillery or craft distillery, a complete inventory in duplicate of unsalable spirits shall be filed with the board by the distillery or craft distillery with a request that inspection be made of the returned spirits before the reconditioning process or destruction is started. When spirits has been returned by the distributor to the importer who imported such spirits, a complete inventory of said spirits shall be filed in duplicate with enforcement by the importer with a request that inspection be made of the returned spirits before the spirits is destroyed or returned to the out-of-state manufacturer.

(c) Spirits which is not in a salable condition and has been returned to a distillery, craft distillery or importer by a distributor may be replaced by the supplier with an identical quantity, type, and brand of spirits. If the brand of spirits is not presently in the distillery, craft distillery, or importer's stock and is not available to the supplier in the immediate future, a cash refund or credit may be made to the distributor by the supplier. Credit extended for the return of product should be noted on a separate document from the original invoice. Except as provided herein, no other adjustment, by way of a cash refund or otherwise, shall be made by the distillery, craft distillery, or spirits distributor.

(2) Spirits may be returned by a retail licensee or by a governmental agency who has seized the same to the spirits distributor selling such spirits in the event the retailer goes out of the business of selling spirits at retail a cash refund may be made upon return of the spirits, provided that consent of the board is first had and obtained.

(3) Spirits different from that ordered which has been delivered in error to a retail licensee may be returned to a spirits distributor and either replaced with that spirits which was ordered or a cash refund may be made upon the approval of the board first being obtained. The error in delivery shall be discovered and corrected within eight days of the date the delivery was made.

(4) A distributor may return salable spirits to a Washington distillery or craft distillery provided the distillery or craft distillery reimburses the distributor for the cost of the spirits.

NEW SECTION

WAC 314-28-220 Bonded and nonbonded spirits warehouse. (1) There shall be a license that allows the storage and handling of bonded bulk spirits and, to the extent allowed under federal law, bottled spirits and the storage of tax-paid spirits not in bond. The licensee is allowed to store spirits of a distillery, craft distillery or manufacturer.

(2) Spirits in bond (bulk) may be removed from a bonded spirits warehouse for the purpose of being:

(a) Exported from the state;

(b) Returned to a distillery or spirits warehouse licensed under this section; or

(c) Transferred to a distillery, spirits warehouse licensed under this section, or a licensed bottling or packaging facility.

(3) Bottled spirits that are being removed from a spirits warehouse licensed under this section tax-paid may be:

(a) Transferred back to the distillery that produced them;

(b) Shipped to a licensed Washington spirits distributor;

(c) Shipped to a licensed Washington spirits retailer;

(d) Exported from the state; or

(e) Removed for direct shipping to a consumer pursuant to RCW 66.20.410.

(4) Handling of bottled spirits that have been removed from bond tax-paid and that reside in the spirits warehouse includes:

(a) Packaging and repackaging services;

(b) Bottle labeling services;

(c) Creating baskets or variety packs that may or may not include nonspirits products; and

(d) Picking, packing, and shipping spirits orders on behalf of a licensed distillery direct to consumers in accordance with RCW 66.20.410.

A distillery contracting with the operator of a spirits warehouse licensed under this section for handling bottled spirits must comply with all applicable state and federal laws and is responsible for financial transactions in direct to consumer shipping activities.

(5) The license applicant must demonstrate:

(a) The right to have warehoused spirits under a valid federal permit held by the distiller, craft distillery, or manufacturer who maintains ownership and title to the spirits while they are in storage;

(b) The location is physically secure;

(c) Zoned for the intended use; and

(d) Physically separated from any other use.

(6) A licensee must be a sole proprietor, a partnership, a limited liability company, a corporation, a port authority, a city, a county, or any other public entity or subdivision of the state that elects to license a bonded spirits warehouse as an agricultural or economic development activity. One or more domestic distilleries or manufacturers may operate as a partnership, corporation, business co-

op, cotenant, or agricultural co-op for the purpose of obtaining a bonded and nonbonded spirits warehouse license or storing spirits in the facility under a common management and oversight agreement free of charge or for a fee.

(7) The ownership and operation of a spirits warehouse facility licensed under this section may be by a person or entity other than those described in this section acting in a commercial warehouse management position under contract for such licensed persons or entities on their behalf.

(8) A licensee must designate clearly in its license application to the board the sections of the warehouse that are bonded and nonbonded with a physical separation between such spaces, be physically secure, zoned for the intended use, and physically separated from any other use.

(9) The proprietor of the warehouse must maintain a plan for tracking spirits being stored in the warehouse to ensure compliance with relevant bonding and tax obligations.