



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 14, 2020

TIME: 10:29 AM

WSR 20-21-056

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

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

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

- Yes No If Yes, explain:

Purpose: WAC 314-55-013 – Voluntary marijuana licensee consultation and education program. The Washington State Liquor and Cannabis Board (Board) has adopted a new section of rule to establish a voluntary compliance program for marijuana licensees consistent with the mandates of Engrossed Senate Substitute Bill (ESSB) 5318 (Chapter 394, Laws of 2019), now codified as RCW 69.50.342(3) and RCW 69.50.561.

Citation of rules affected by this order:

New: WAC 314-55-013
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 69.50.342; RCW 69.50.561.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-16-153 on August 5, 2020 (date).

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

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

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Other:

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

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

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	1	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___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

New	___	Amended	___	Repealed	___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

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

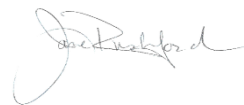
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	1	Amended	___	Repealed	___

Date Adopted: October 14, 2020

Name: Jane Rushford

Title: Chair

Signature:



NEW SECTION

WAC 314-55-013 Voluntary marijuana licensee consultation and education program. (1) **Purpose and scope.** The purpose of this section is to:

(a) Establish a program for marijuana licensee consultation and education visits consistent with the requirements of RCW 69.50.342(3) and 69.50.561;

(b) Establish criteria for the provision of advice, consultation, and education visits including, but not limited to, recommendations on abating violations of this chapter;

(c) Ensure that advice, consultation and education visits are distinguished from inspections, technical visits, or investigations, and are limited to interpretation and applicability of standards in this chapter including, but not limited to, the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means and practices in the licensee's licensed premise; and

(d) Advice, consultation, and educational visits provided under this program do not include business advice concerning issues that may include, but are not limited to, individual business operations, marketing, distribution, financing, profitability, or viability.

(2) **Definitions.**

(a) For purposes of this chapter, "a direct or immediate relationship to public health and safety" or "a direct or immediate risk to public health and safety" means, where the board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product out of the regulated market or sales across state lines;

(ii) Furnishing of marijuana product to persons under twenty-one years of age;

(iii) Diversion of revenue to criminal enterprise, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements;

(iv) The commission of nonmarijuana-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to the conduct or action that is, or is alleged to be, any of the violations identified in (a)(i) through (iv) of this subsection.

(vi) Violations outlined in WAC 314-55-509 (1)(a), (b), and (c), and more fully described in WAC 314-55-520, 314-55-521, and 314-55-522.

(b) The definitions contained in chapters 314-55 WAC and 69.50 RCW also apply to this section.

(3) **Request for consultation.**

(a) A marijuana licensee or their designee may make one request for advice and consultation per year by completing and submitting an application to request consultation through the board's website. Additional requests may be considered at the board's discretion.

(b) A board representative will schedule and complete advice and consultation visits within forty-five calendar days of receipt of the request for consultation.

(i) If the marijuana licensee or designee, or the board representative requires more than forty-five calendar days to schedule and complete the consultation visit, the board representative may extend the completion deadline.

(ii) If the deadline is extended, at the licensee's request, more than sixty days after the board's receipt of the request for consultation, the marijuana licensee must resubmit a request for consultation consistent with this section.

(4) Advice and consultation services.

(a) Advice and consultation services offered in connection with a request for consultation do not preclude informal requests, or usual and customary interactions between licensees, the board, or any board staff.

(b) Regulatory issues described in this chapter observed during the course of an advice, consultation, and education visit are not subject to disciplinary action unless the identified issue has a direct or immediate relationship to public health and safety.

(c) Advice, consultation, education, and any written report or documentation provided under this section is limited to the matters specified in the request for consultation. At the request of the licensee, a consultation may include:

(i) An initial meeting to explain the licensee's rights and obligations;

(ii) A walk-through visit to evaluate the compliance concerns specified in the request for consultation;

(iii) A closing meeting to discuss conditions noted during the initial visit to make recommendations;

(iv) A written report of conditions found in the marijuana licensee's place of business and any recommendations or agreements made; or

(v) A follow-up visit, if appropriate, to ensure that the conditions specified in the request for consultation have been satisfactorily abated.

(d) If an identified condition is not a direct or immediate risk to public health and safety, the condition will be documented in the appropriate database as part of the consultation visit, and will include the following:

(i) A detailed description of the condition that is not in compliance;

(ii) The full text of the specific section or subsection of the statute or rule applicable to the condition that is not in compliance;

(iii) A statement and complete description of the actions and steps the licensee or their designee must take to achieve compliance;

(iv) The date, method of service, name, and signature of the licensee, their designee, or both participating in the visit; and

(v) The date that the licensee or their designee must achieve compliance. This date may be mutually agreed upon by the board representative and the licensee or their designee, and may be based on a variety of factors including, but not limited to, the cost and severity of the conditions to be abated.

(e) A consultation report or notice to correct made by a board representative under this section is not a formal enforcement action.

(f) The board representative will provide the licensee or their designee with instructions regarding how to request an extension of time consistent with subsection (5) of this section.

(g) The board representative may perform a follow-up visit within sixty days of the mutually agreed upon compliance date based on the severity of the conditions described in this section.

(5) Licensee responsibilities.

(a) A marijuana licensee or their designee agrees to work with the board representative to schedule a consultation visit at a mutually agreed upon date and time.

(b) A marijuana licensee or their designee agrees to make reasonable efforts to correct or abate all conditions identified in the statement of conditions within the mutually agreed upon date and time.

(c) If a marijuana licensee or their designee is unable to correct or abate all of the conditions identified in the statement of conditions, the licensee or their designee may request an extension of time by submitting a written request. The written request must describe:

(i) The need for the extension;

(ii) Confirmation of the steps taken to abate the conditions described in the statement of conditions; and

(iii) A proposed abatement date.