



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: May 11, 2022

TIME: 12:06 PM

WSR 22-11-033

Agency: Washington State Liquor and Cannabis Board

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

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

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

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

Proposal is exempt under RCW _____.

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

Hearing location(s):

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

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

Submit written comments to:

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

Assistance for persons with disabilities:

Contact Anita Bingham, ADA Coordinator, Human Resources

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

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

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

Statutory authority for adoption: RCW 66.08.030, 34.05.010.

Statute being implemented: None.

Is rule necessary because of a:

Federal Law?	<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:	Audrey Vasek, Policy and Rules Coordinator	1025 Union Avenue, Olympia WA, 98501	360-664-1758
Implementation:	Becky Smith, Director of Licensing	1025 Union Avenue, Olympia, WA. 98501	360-664-1753
Enforcement:	Chandra Brady, Director of Enforcement and Education	1025 Union Avenue, Olympia, WA, 98501	360-664-1726

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

If yes, insert statement here:

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

Name:
Address:
Phone:
Fax:
TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

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

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

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

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

Citation and description:

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

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

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

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

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

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

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

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

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

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

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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

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

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

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

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

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


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

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

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

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

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

Date: May 11, 2022	Signature: 
Name: Ollie Garrett	
Title: Acting Chair	

NEW SECTION

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

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

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

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