

Chapter 314-28 WAC DISTILLERS

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-28-070	Monthly reporting and payment requirements for a distiller and craft distiller. [Statutory Authority: Chapter 66.24 RCW, RCW 66.08.030 and Court of Appeals Decision: Washington Restaurant Association, et al., v. WSLCB, 200 Wn.App. 119, 401 P.3d 428 (2017). WSR 19-21-002, § 314-28-070, filed 10/2/19, effective 1/1/20. Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-070, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-070, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-070, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-070, filed 12/29/08, effective 1/29/09.] Repealed by WSR 21-13-026, filed 6/9/21, effective 7/10/21. Statutory Authority: RCW 66.08.030 and Blue Spirits Distilling, LLC v. WSLCB, 15 Wn. App. 2d 779, 478 P.3d 153 (2020).
314-28-080	What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? [Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-080, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-28-080, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 66.24.630, 66.24.055, 66.24.145 and 66.08.030. WSR 13-07-085, § 314-28-080, filed 3/20/13, effective 4/20/13. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-080, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.08.030, 66.24.145. WSR 09-02-011, § 314-28-080, filed 12/29/08, effective 1/29/09.] Repealed by WSR 21-13-026, filed 6/9/21, effective 7/10/21. Statutory Authority: RCW 66.08.030 and Blue Spirits Distilling, LLC v. WSLCB, 15 Wn. App. 2d 779, 478 P.3d 153 (2020).
314-28-095	Farmer's market spirits sales. [Statutory Authority: RCW 66.08.030. WSR 16-01-102, § 314-28-095, filed 12/16/15, effective 1/16/16.] Repealed by WSR 21-11-034, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474.

WAC 314-28-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Craft distillery" means any distillery licensed under RCW 66.24.145 and located in the state of Washington.

(2) "Domestic distillery" means any distillery licensed under RCW 66.24.140 and located in the state of Washington.

(3) "Off-site tasting room" means an off-site tasting room licensed under RCW 66.24.146.

(4) "Tasting room" includes both off-site tasting rooms operated by, and on-site tasting rooms operated at, a licensed distillery or craft distillery premises.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-005, filed 5/12/21, effective 6/12/21. Statutory

Authority: RCW 66.24.145 and 66.08.030. WSR 14-20-047, § 314-28-005, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-28-005, filed 12/16/09, effective 1/16/10.]

WAC 314-28-010 Records. (1) All distilleries licensed under RCW 66.24.140 and 66.24.145, including craft, fruit, and laboratory distillers must:

(a) Keep records regarding any spirits, whether produced or purchased, for three years after each sale;

(b) In the case of spirits exported or sold, preserve all bills of lading and other evidence of shipment;

(c) Submit duplicate copies of transcripts, notices, or other data that is required by the federal government to the board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request;

(d) Preserve all sales records to spirits retail licensees, sales to spirits distributors, and exports from the state; and

(e) Submit copies of its records to the board upon request.

(2) In addition to the above, a craft distiller must:

(a) Preserve all sales records of retail sales to consumers; and

(b) Submit its records to the board upon request.

[Statutory Authority: RCW 66.08.030 and Blue Spirits Distilling, LLC v. WSLCB, 15 Wn. App. 2d 779, 478 P.3d 153 (2020). WSR 21-13-026, § 314-28-010, filed 6/9/21, effective 7/10/21. Statutory Authority: RCW 66.08.030. WSR 16-01-102, § 314-28-010, filed 12/16/15, effective 1/16/16. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-010, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-010, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-010, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030. WSR 86-07-022 (Order 172, Resolution No. 181), § 314-28-010, filed 3/13/86; Order 14, § 314-28-010, filed 12/1/70, effective 1/1/71; Rule 84, filed 6/13/63.]

WAC 314-28-030 Distillery license. (1) A distillery license allows the licensee to engage in activities authorized in RCW 66.24.140.

(2) A distillery licensee must comply with all applicable laws and rules including, but not limited to, the sampling, service, and sales requirements in WAC 314-28-065, the tasting room age restrictions in WAC 314-28-066, and the food offerings requirements in WAC 314-28-067. For information on local city or county requirements, licensees need to contact their local government offices.

(3)(a) 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."

(i) 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.

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

(b) 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.

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

(4) Consistent with RCW 66.24.1474, a distillery licensee may add a spirits, beer, and wine restaurant license as authorized in RCW 66.24.400 at the distillery premises. The licensee must complete an application and submit the application and applicable fees to the board for processing. For more information about spirits, beer, and wine restaurant license requirements, see WAC 314-02-015.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-030, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-030, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 66.08.030, 66.24.145. WSR 15-16-049, § 314-28-030, filed 7/29/15, effective 8/29/15; WSR 14-20-047, § 314-28-030, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-030, filed 6/5/12, effective 7/6/12.]

WAC 314-28-050 Craft distillery license. (1) A craft distillery license allows a licensee to engage in activities authorized in RCW 66.24.145.

(2) A craft distillery licensee must comply with all applicable laws and rules including, but not limited to, the sampling, service, and sales requirements in WAC 314-28-065, the tasting room age restrictions in WAC 314-28-066, and the food offerings requirements in WAC 314-28-067. For information on local city or county requirements, licensees need to contact their local government offices.

(3) Consistent with RCW 66.24.140, a craft distillery licensee may 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.

(4) Consistent with RCW 66.24.1474, a craft distillery licensee may add a spirits, beer, and wine restaurant license as authorized in RCW 66.24.400 at the craft distillery premises. The licensee must complete an application and submit the application and applicable fees to the board for processing. For more information about spirits, beer, and wine restaurant license requirements, see WAC 314-02-015.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-050, filed 5/12/21, effective 6/12/21. Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-050, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 66.08.030, 66.24.145. WSR 15-16-049, § 314-28-050, filed 7/29/15, effective 8/29/15; WSR 14-20-047, § 314-28-050, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, §

314-28-050, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-050, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-050, filed 12/29/08, effective 1/29/09.]

WAC 314-28-055 Requirements for contract production by craft distilleries. (1) This section clarifies the language for contract production found in RCW 66.24.145. For the purposes of this section, contract production is when one craft distillery, referred to as the "contractor," produces distilled spirits for and sells contract distilled spirits to holders of distillers' or manufacturers' licenses 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 RCW and WAC 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.

(2) 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.

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

(4) Maintaining qualification as a craft distillery. Each craft distillery, whether in the capacity of a contractor or contractee, is allowed to produce one hundred fifty thousand gallons or less of total product per year. Total product, in this instance, includes:

(a) Product owned and produced by the craft distillery;

(b) Product owned and produced by the craft distillery for export from the state;

(c) Product owned by the craft distillery but produced by another craft distillery;

(d) Product produced by the craft distillery on behalf of another craft distillery;

(e) Product produced by the craft distillery under contract for another distillery, manufacturer, or grower.

(5) Recordkeeping.

(a) The contractor must submit, upon request by the board, records of all product produced including contract production.

(b) The contractee must submit, upon request by the board, records of the product contract produced by another craft distillery.

(c) The contractor's and the contractee's recordkeeping documents must include the product information for each contract. The information must show the quantities produced.

[Statutory Authority: RCW 66.08.030 and Blue Spirits Distilling, LLC v. WSLCB, 15 Wn. App. 2d 779, 478 P.3d 153 (2020). WSR 21-13-026, § 314-28-055, filed 6/9/21, effective 7/10/21. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 14-20-047, § 314-28-055, filed 9/24/14, effective 10/25/14; WSR 10-19-066, § 314-28-055, filed 9/15/10, effective 10/16/10.]

WAC 314-28-060 What are the general requirements for a craft distillery license? Per RCW 66.24.140 and 66.24.145, a craft distillery licensee is required to:

(1) Submit copies of all permits required by the federal government;

(2) Submit other licensing documents as determined by the board;

(3) Ensure a minimum of fifty percent of all raw materials (including any neutral grain spirits and the raw materials that go into making mash, wort or wash) used in the production of the spirits product are grown in the state of Washington. Water is not considered a raw material grown in the state of Washington.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-060, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-060, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-060, filed 12/29/08, effective 1/29/09.]

WAC 314-28-065 Sampling, service, and sales requirements for distillery and craft distillery licensees—Annual report on revenue from tasting room sales of adulterated spirits for on-premises consumption. Consistent with RCW 66.24.140 and 66.24.145:

(1) Distillery and craft distillery licensees may engage in the following sampling, service, and sales activities:

(a) Sell, for off-premises consumption:

(i) Spirits of their own production;

(ii) Spirits produced by another distillery or craft distillery licensed in Washington, subject to the alcohol stock-keeping unit requirements in subsection (2) of this section; and

(iii) Vermouth and sparkling wine produced by a licensee in Washington, subject to the alcohol stock-keeping unit requirements in subsection (2) of this section.

(b) Serve or sell, for on-premises consumption, samples of spirits of their own production or samples of spirits produced by another distillery or craft distillery licensed in Washington, subject to the alcohol stock-keeping unit requirements in subsection (2) of this section and the following requirements:

(i) Samples may be free or for a charge;

(ii) Each sample must be one-half ounce or less of spirits;

(iii) Spirits samples may be adulterated with water, ice, other alcohol allowed to be sold on-site, or nonalcoholic mixers; and

(iv) A licensee may not allow an individual person to receive more than a cumulative total of two ounces of unadulterated spirits for on-premises consumption. Additional spirits purchased for on-premises consumption must be adulterated.

(c) Sell, for on-premises consumption, servings of spirits of their own production or servings of spirits produced by another distillery or craft distillery licensed in Washington, subject to the alcohol stock-keeping unit requirements in subsection (2) of this section and the following requirements:

(i) Servings must be adulterated with water, ice, other alcohol permitted to be sold at the location, or nonalcoholic mixers; and

(ii)(A) The revenue derived from the sale of adulterated spirits for on-premises consumption under (c) of this subsection must not com-

prise more than thirty percent of the overall gross revenue earned in the tasting room during the calendar year.

(B) The thirty percent limit described in this subsection is an annual limit. As long as the thirty percent limit is not exceeded on an annual basis, revenue that exceeds the thirty percent limit in any one month does not violate the limit.

(C) Consistent with RCW 66.24.140 (2)(c)(ii) and 66.24.145 (3)(b), distilleries and craft distilleries that sell adulterated spirits for on-premises consumption under (c) of this subsection must file an annual report summarizing their revenue sources. The annual report on revenue from tasting room sales of adulterated spirits for on-premises consumption must be filed on a form furnished by the board or in a format approved by the board. The annual report must be submitted to the board by January 25th following the end of the calendar year for the reporting period. (For example, an annual report listing revenue sources for 2021 is due by January 25, 2022.)

(d) Sell, for on-premises consumption, servings of vermouth or sparkling wine produced by a licensee in this state, subject to the alcohol stock-keeping unit requirements in subsection (2) of this section.

(e) Sell nonalcoholic products at retail.

(2) A distillery or craft distillery licensee that provides or sells, for on-premises or off-premises consumption, spirits, sparkling wine, or vermouth produced by another licensee in this state, must meet the following alcohol stock-keeping unit requirements:

(a) Except as provided in (b) of this subsection, at any one time no more than twenty-five percent of a distillery or craft distillery licensee's total alcohol stock-keeping units, offered or sold at the distillery or craft distillery premises and at any off-site tasting rooms, may be vermouth, sparkling wine, or spirits produced by another licensee in this state.

(b) If a distillery or craft distillery licensee sells fewer than twenty different alcohol stock-keeping units of its own production at any one time, it may sell up to five alcohol stock-keeping units of vermouth, sparkling wine, or spirits that are produced by another licensee in this state.

(3) Any person serving or selling spirits or other alcohol authorized to be served or sold by a distillery or craft distillery licensee must obtain a class 12 alcohol server permit.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-065, filed 5/12/21, effective 6/12/21.]

WAC 314-28-066 Tasting room age restrictions for distillery and craft distillery licensees. Consistent with RCW 66.24.140 and 66.24.145:

(1) A distillery or craft distillery licensee must not allow any person under the age of twenty-one to enter a tasting room unless they are accompanied by their parent or legal guardian.

(2)(a) Every tasting room must include a designated area where persons under the age of twenty-one are allowed to enter.

(b) The designated area may be in a separate room or within the tasting room.

(c) The designated area must be separated from the remainder of the tasting room space by a clear demarcation. "Demarcation" has the same meaning and options as provided in WAC 314-02-025(3).

(3) Persons under the age of twenty-one are not allowed on the premises of a licensed distillery, craft distillery, or off-site tasting room past 9:00 p.m., unless:

(a) They are on the premises during an event where a private party has secured a banquet permit (see chapter 314-18 WAC); or

(b) They are the children of owners, operators, or managers of the licensed distillery, craft distillery, or off-site tasting room, and they are under direct supervision of their parent or legal guardian while on the premises.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-066, filed 5/12/21, effective 6/12/21.]

WAC 314-28-067 Food offerings requirements. (1) Consistent with RCW 66.24.1471, licensed distilleries, craft distilleries, and off-site tasting rooms must comply with the food offerings requirements in this section. "Food offerings" has the same meaning as provided in RCW 66.24.1471.

(a) Food offerings may be prepackaged for individual sale and consumption.

(b) Food offerings may be preprepared off-site for plating for the customer.

(c) Food offerings are not required to be warmed, cooked, or heated off-site or on-site prior to service.

(d) Food heating devices or preparation apparatuses are not required to be installed, maintained, or used to prepare any food offerings.

(2) In addition to the food offerings requirements in this section, licensed distilleries, craft distilleries, and off-site tasting rooms must comply with all applicable requirements in RCW 66.24.1471 including, but not limited to, requirements related to posting lists of local restaurants or food trucks and any local city or county health requirements. For information on local city or county health requirements, licensees need to contact their local health department.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146,, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-067, filed 5/12/21, effective 6/12/21.]

WAC 314-28-090 Distilleries or craft distilleries—Requirements for selling out-of-state. (1) A distillery or craft distillery licensee shall provide, upon request by 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 one hundred fifty thousand proof gallons per calendar year production limit.

(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.

[Statutory Authority: RCW 66.08.030 and Blue Spirits Distilling, LLC v. WSLCB, 15 Wn. App. 2d 779, 478 P.3d 153 (2020). WSR 21-13-026, § 314-28-090, filed 6/9/21, effective 7/10/21. Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-090, filed 12/20/17, effective 1/20/18. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-090, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-090, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-090, filed 12/29/08, effective 1/29/09.]

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.

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.

(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.

(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 liq-

uor 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) **Website requirements.** When selling over the internet, all website 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.

[Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-100, filed 12/20/17, effective

1/20/18. Statutory Authority: RCW 66.08.030. WSR 16-01-102, § 314-28-100, filed 12/16/15, effective 1/16/16.]

WAC 314-28-200 Adoption of federal laws. All laws, rules and regulations of the federal government, or any subsequent modification thereof, applicable to the distillation of spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of this board, unless the board implements different procedures by rule or policy.

[Statutory Authority: RCW 66.08.030, 66.24.145. WSR 09-02-011, § 314-28-200, filed 12/29/08, effective 1/29/09.]

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.

[Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-210, filed 12/20/17, effective 1/20/18.]

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.

[Statutory Authority: RCW 66.24.170, 66.24.640, 66.24.695, and 66.08.030. WSR 18-02-006, § 314-28-220, filed 12/20/17, effective 1/20/18.]

WAC 314-28-300 Off-site tasting room license. (1) Distillery and craft distillery licensees may apply for an off-site tasting room license as authorized in RCW 66.24.146.

(2) Consistent with RCW 66.24.146:

(a) A distillery or craft distillery licensee is eligible for up to two off-site tasting room licenses located in this state, subject to the limit on the total number of off-site tasting room licenses under RCW 66.24.1473.

(b) Off-site tasting rooms may be indoors, outdoors, or a combined indoor and outdoor area. For requirements related to outside alcohol service, see WAC 314-03-200.

(c) The fee for each off-site tasting room license is two thousand dollars per year.

(3) An off-site tasting room must comply with all applicable requirements in RCW 66.24.146 and any other applicable laws and rules including, but not limited to, the sampling, service, and sales requirements in WAC 314-28-065, the tasting room age restrictions in WAC 314-28-066, and the food offerings requirements in WAC 314-28-067. For information on local city or county requirements, licensees need to contact their local government offices.

(4) RCW 66.24.146 allows an off-site tasting room to have a section identified and separated as a federally bonded space for the storage of bulk or packaged spirits, and allows products of the licen-

see's own production to be bottled or packaged in the space. A licensee engaging in this activity at an off-site tasting room must comply with all applicable federal laws and regulations and obtain any required federal approvals.

(5) Consistent with RCW 66.24.1474, an off-site tasting room licensee may add a spirits, beer, and wine restaurant license as authorized in RCW 66.24.400 at the off-site tasting room premises. The licensee must complete an application and submit the application and applicable fees to the board for processing. For more information about spirits, beer, and wine restaurant license requirements, see WAC 314-02-015.

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-300, filed 5/12/21, effective 6/12/21.]

WAC 314-28-310 Jointly operated off-site tasting rooms. (1)

Jointly operated off-site tasting rooms are allowed as authorized in RCW 66.24.1472. Consistent with RCW 66.24.1472:

(a) Any licensed distillery, craft distillery, or domestic winery, or any combination of these licensees, may jointly occupy and co-operate up to two off-site tasting room locations described in WAC 314-28-300. The limit of four winery additional locations in WAC 314-24-161 and RCW 66.24.170 does not apply to the two jointly operated off-site tasting room locations allowed under this section.

(b)(i) At a jointly operated off-site tasting room, distillery and craft distillery licensees may sample, serve, and sell products subject to the requirements in WAC 314-28-065, and domestic winery licensees may sample, serve, and sell products subject to the requirements in chapter 314-24 WAC.

(ii) Consistent with RCW 66.24.140 and 66.24.145, a licensee may not allow an individual person to receive more than a cumulative total of two ounces of unadulterated spirits for on-premises consumption at a jointly operated off-site tasting room, regardless of the number of licensees operating at a jointly operated off-site tasting room.

(c) At a jointly operated off-site tasting room, licensees must:

(i) Maintain separate storage of products and separate financial records. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(ii) Comply with the applicable laws and rules relating to retailers; and

(iii) Share staffing resources under a written plan. The written plan should demonstrate in general how responsibility for staffing the premises is shared among the licensees. Licensees are not required to submit the written plan to the board at the time of application or alteration but must keep documentation of an up-to-date written plan available for inspection on premises.

(2) In addition to the requirements in this section, jointly operated off-site tasting rooms must comply with all applicable requirements in RCW 66.24.1472 and any other applicable laws and rules including, but not limited to, the tasting room age restrictions in WAC 314-28-066 and the food offerings requirements in WAC 314-28-067. For information on local city or county requirements, licensees need to contact their local government offices.

(3) Responsibility for violations or enforcement issues will be determined consistent with RCW 66.24.1472(5).

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-310, filed 5/12/21, effective 6/12/21.]

WAC 314-28-320 Jointly operated conjoined consumption areas.

(1) Jointly operated conjoined consumption areas are allowed as authorized in RCW 66.24.1472. Consistent with RCW 66.24.1472:

(a) Any domestic brewery, microbrewery, domestic winery, distillery, or craft distillery, or any combination of these licensees, whose property parcels or buildings are located in direct physical proximity to one another may share a jointly operated conjoined consumption area. "Direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point.

(b) The jointly operated conjoined consumption area may be a standing or seated tasting area for patrons to use, which may be indoors, outdoors, or a combined indoor and outdoor area. For requirements related to outside alcohol service, see WAC 314-03-200.

(c)(i) Each licensee may sample, serve, and sell products as authorized under the terms of their respective licenses for on-premises consumption in the jointly operated conjoined consumption area. For the requirements applicable to:

(A) Distillery and craft distillery licensees, see WAC 314-28-065.

(B) Domestic winery licensees, see chapter 314-24 WAC.

(C) Domestic brewery and microbrewery licensees, see chapter 314-20 WAC.

(ii) Consistent with RCW 66.24.140 and 66.24.145, a licensee may not allow an individual person to receive more than a cumulative total of two ounces of unadulterated spirits for on-premises consumption at a jointly operated conjoined consumption area, regardless of the number of licensees operating at a jointly operated conjoined consumption area.

(iii) Consistent with WAC 314-11-065, a licensee may not permit the removal of liquor in an open container from the jointly operated conjoined consumption area, except to reenter the licensed premises where the liquor was purchased. Signage prohibiting the removal of liquor in an open container must be visible to patrons in the jointly operated conjoined consumption area.

(d) In a jointly operated conjoined consumption area, licensees must:

(i) Maintain separate storage of products and separate financial records. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(ii) Use distinctly marked glassware or serving containers to identify the source of any product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(iii) Comply with the applicable laws and rules relating to retailers; and

(iv) Share staffing resources under a written plan. The written plan should demonstrate in general how responsibility for staffing the premises is shared among the licensees. Licensees are not required to submit the written plan to the board at the time of application or alteration but must keep documentation of an up-to-date written plan available for inspection on premises.

(2) In addition to the requirements in this section, licensees at jointly operated conjoined consumption areas must comply with all requirements in RCW 66.24.1472 and any other applicable laws and rules including, but not limited to:

(a) For distillery and craft distillery licensees, the tasting room age restrictions in WAC 314-28-066 and the food offerings requirements in WAC 314-28-067.

(b) For domestic winery licensees, see chapter 314-24 WAC.

(c) For domestic brewery and microbrewery licensees, see chapter 314-20 WAC.

(d) For information on local city or county requirements, licensees need to contact their local government offices.

(3) Responsibility for violations or enforcement issues will be determined consistent with RCW 66.24.1472(5).

[Statutory Authority: RCW 66.24.148, 66.24.1471, 66.08.030, 66.24.140, 66.24.145, 66.24.146,, 66.24.1472, 66.24.1473, and 66.24.1474. WSR 21-11-034, § 314-28-320, filed 5/12/21, effective 6/12/21.]

WAC 314-28-350 Contract packaging services endorsement for domestic distilleries and craft distilleries. Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is \$100.

[Statutory Authority: RCW 66.08.030 and 66.24.248. WSR 22-19-035, § 314-28-350, filed 9/14/22, effective 10/15/22.]