

| Topic:        | Petition for Adoption, Amendment, or Repeal of a State<br>Administrative Rule – (WAC 314-55-083) Reversing<br>Unspecified Changes |
|---------------|---|
| Date:         | March 27, 2024  |
| Presented by: | Denise Laflamme, Rules Coordinator  |

## **Background**

On February 22, 2024, Justin Gua (Petitioner), submitted a petition for rulemaking to the Washington State Liquor and Cannabis Board (LCB), requesting the Board initiate rulemaking to consider amending <u>WAC 314-55-083</u> to reverse language changes.

The Petitioner did not identify the specific provisions in WAC 314-55-083 he is requesting be amended, and states the request for the change to be "back to the previous language". His completed petition form sections are provided below.

| STATE OF  | 2. AMEND RULE - I am requesting the agency to change an existing rule.  |
|---|---|
| PETITION FOR ADOPTION, AMENDMENT, OR REPEAL<br>OF A STATE ADMINISTRATIVE RULE   | List rule number (WAC). If known: WAC 314-55-083  |
| In accrdance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups<br>who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You<br>may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email. | X I am requesting the following change: I believe there may brue been a change<br>of language, Reauesting for change back to the previous language,<br>This change is needed because: |
| The agency or institution will give full consideration to your patition and will respond to you within 60 days of receiving your<br>petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC)<br>at http://app.idu.uk.ao/washidu.tass/cite#28-05.  | The effect of this rule change will be:   |
| CONTACT INFORMATION (ploase type or print)<br>Petitioner's Nerne Turity (trag   | The rule is not clearly or simply stated:   |
| Name of Organization<br>Mailing Address D. (J. Box 1789   |   |
| City Dwak State Ub, Zip Code 98841<br>Telephone 509-826-1558 Email Justingua 2020 G prail, Com  |   |
| COMPLETING AND SENDING PETITION FORM  |   |
| <ul> <li>Check all of the boxes that apply.</li> </ul>  |   |
| <ul> <li>Provide relevant examples.</li> </ul>  |   |
| Include suggested language for a rule, if possible.   |   |
| Attach additional pages, if needed.   |   |
| <ul> <li>Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and<br/>their rules coordinators: <a href="http://www.leg.wa.gov/CodeReviserDocuments/RClist.htm">http://www.leg.wa.gov/CodeReviserDocuments/RClist.htm</a>.</li> </ul>  |   |
| INFORMATION ON RULE PETITION  |   |
| Agency responsible for adopting or administering the rule: Washington Aafe Ligour and Cannabis<br>Board   |   |
| 1. NEW RULE - I am requesting the agency to adopt a new rule.   |   |

LCB rules staff had multiple email and phone conversations with the Petitioner in an attempt to understand his repeated stated concerns.

# <u>Issue</u>

Whether the Board should accept or deny the petition to initiate the rulemaking process to consider amending WAC 314-55-083 related to the security and traceability requirements for cannabis licensees to reverse changes to the requirements.

# <u>Analysis</u>

When making a recommendation to the Board regarding a petition for rulemaking submitted, the Director's Office Staff considers the following factors to the extent practicable:

- Statutory authority and obligations;
- Alignment with the Board's policy goals and priorities;
- The immediacy of the safety, environmental, or security concern(s) raised;
- Potential impact to public health outcomes;
- Level of public interest;
- Whether the problems or issues are already under consideration by the LCB in other rulemaking issues;
- Merits of the petition;
- Interagency and intragency impacts;
- Potential costs, benefits, and consequences (intended and unintended); and
- Equity impacts; and
- Feasibility/practicability

Accepting the petition intitates the rulemaking proceeedings to consider amending rules, consistent with the Administrative Procedures Act (<u>Chapter 34.05 RCW</u>). The first official step in the rulemaking process is filing a CR-101, preproposal statement of inquiry, which announces that the Agency is considering rulemaking and invites the public to comment on the rulemaking subject. Comments are used to inform whether and how a rule should be modified to achieve the most favorable outcome.

The most recent amendments to WAC 314-55-083 security and traceability requirements took effect in 2018.

# History of Modifications to WAC 314-55-083

- The original language was filed as <u>WSR 13-21-104</u> on 10/21/2013 and became effective on 11/21/2013.
- In 2014, amendments were made to the section, filed as <u>WSR 14-07-116</u>, and became effective on 4/19/2014:
  - Subsection (4) was amended to require traceability reporting of key events related to extracts, waste, samples, seeds, and plant tissue be recorded; and,
  - Subsection (5) was amended to allow producers 24 hours to record plant inventory that enters the facility (previously, plant inventory had to be recorded immediately).
- In 2015, amendments were made to the section, filed as <u>WSR 15-11-107</u>, and became effective on 6/20/2015:
  - Subsection (1) was amended to require visitors on a licensed premises of a producer or processor be issued a badge and licensees maintain a visitor log;

- Subsection (3) was amended to consolidate and specify surveillance system requirements including resolution, storage, placement of cameras, recording schedule, methods for securing surveillance system equipment, and schedule for retaining recordings. Subsection (3)(a) was amended to define controlled areas.
- Subsection (4) was amended to add marijuana concentrates, expand parts of marijuana plants included in lots, and add transport to another producer for mandatory waiting periods to allow for inspection.
- Subsection (6) was amended to specify labeling, recording of outgoing samples on a transport manifest, and that licensees must receive samples in the traceability system prior to sampling.
- In 2016, amendments were made to the section, filed as <u>WSR 16-11-110</u>, and became effective on 6/18/16:
  - Subsection (1) was amended to specify information required on identification badges, that all licencess and employees must have their state issued identification available to verify badge information, that licensees were also required to display identification badges, and that identification badges must be worn when engaged in transportation. Subsection (1)(d) was amended to require that all employees, visitors and other persons at a marijuana licensed premises must provide identification to an enforcement officer upon request.
  - Subsection (4) was amended to specify that plants eight or more inches in height must be tagged and tracked and to specify items and products requiring physical tags with sixteen digit identification numbers generated by traceability system and tracked.
- In 2018, amendments were made to the section, filed as <u>WSR 18-22-055</u>, and became effective on 12/1/18:
  - Title of section was amended to insert traceability.
  - Subsection (3) was amended to require cameras to allow for clear and certain identification of persons and activities in controlled areas and to require recordings from indoor and outdoor vantage points. Reference to quarantine locations was removed.
  - Subsection (4) was amended to remove mandatory waiting periods, to add unique identifiers for traceability, to remove start-up inventory subsection, to clarify vendor samples, and to correct spelling.
- In 2022, amendments were made to the section, filed as <u>WSR 22-14-111</u>, and became effective on 7/6/22:
  - Replaced "marijuana" with "cannabis" throughout WAC 314-55.

The petitioner did not cite specific changes to WAC 314-55-083 that he is requesting for reversion. The LCB does not typically accept petitions to undo changes that have been done through the rulemaking process, especially when the reason to undo those changes has not been fully explained.

# **Conclusion**

Since the Petitioner did not cite specific subsections to be amended in the petition, the request could not be evaluated based on the factors described above.

## **Recommendation**

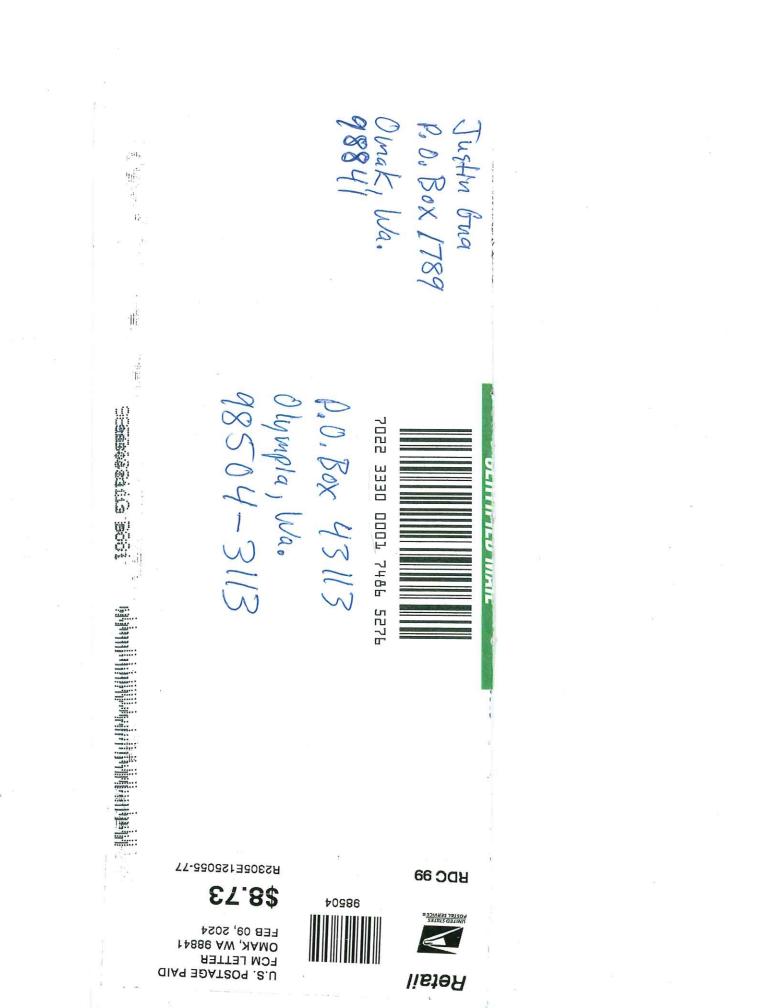
The Director's Office staff recommend that consistent with RCW 34.05.330(1)(b), the Board deny the petition for adoption, repeal or amendment of rules related to reversing unspecified changes to WAC 314-55-083.

# **Board Action**

After considering the recommendation of Director's Office staff, the Board accepts or denies the petition for rulemaking received from Justin Gua on February 22, 2024.

| Accept Deny                        |                               |      |
|------------------------------------|-------------------------------|------|
|                                    | David Postman, Chair          | Date |
| Accept Deny                        |                               |      |
|                                    | Ollie Garrett, Board Member   | Date |
| Accept Deny                        |                               |      |
|                                    | Jim Vollendroff, Board Member | Date |
| Attachments:<br>1. Petitition form |                               |      |

2. Emails







### PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at http://apps.leg.wa.gov/wac/default.aspx?cite=82-05.

| CONTACT INFORMATION (please type or print) |                                 |
|--|---------------------------------|
| Petitioner's Name                          |                                 |
| Name of Organization                       |                                 |
| Mailing Address D. O. Box 1789             |                                 |
| City Omak                                  | State UA, Zip Code 9884/        |
| Telephone 509-826-1558                     | Email justingua Zozaggmail, Com |

#### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm.

#### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State Ligour and Cannabis

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is:

The rule is needed because:

The new rule would affect the following people or groups:

| 2. AMEND RULE - I am requesting the agency to change  | ge an existing rule.                  |
|---|---------------------------------------|
| List rule number (WAC), if known: WAC 314-  | -55-083                               |
| of language. Requesting the following change: I believ  | to the previous language.             |
| This change is needed because:  |                                       |
| The effect of this rule change will be:   | 2 · · · ·                             |
| The rule is not clearly or simply stated:   |                                       |
|   |                                       |
| 3. REPEAL RULE - I am requesting the agency to elimin   | inate an existing rule.               |
| List rule number (WAC), if known:   | · · · · · · · · · · · · · · · · · · · |
| (Check one or more boxes)   |                                       |
| It does not do what it was intended to do.  |                                       |
| It is no longer needed because:   |                                       |
| It imposes unreasonable costs:  | e<br>                                 |
| The agency has no authority to make this rule:  |                                       |
| It is applied differently to public and private parties:  | ае 5.<br>я                            |
| It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known:       |                                       |
| List duplicates another federal, state or local law or rule.<br>List duplicate law or rule, if known:         |                                       |
| Definition for a copy of this form back<br>Thank you,<br>PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STA |                                       |

Hi Justin,

Do you have a question I can help you with?

Jeff Kildahl Regulatory Analyst Washington State Liquor and Cannabis Board 360-480-7960 jeff.kildahl@lcb.wa.gov

From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 11, 2023 2:23 PM
To: LCB DL Rules <rules@lcb.wa.gov>
Subject: Re: Liquor and Cannabis Board

# External Email

Hello, my name is Justin Gua. Can you call me at either 509-429-1058 or 509-826-1558, please. Thank you.

Sincerely,

Justin Gua

On Fri, Dec 8, 2023, 3:19 PM Justin Gua <<u>justingua2020@gmail.com</u>> wrote:

Hello, my name is Justin Gua. Can you call me at either 509-429-1058 or 509-826-1558, please. Thank you.

Sincerely,

Justin Gua

On Thu, Dec 7, 2023, 1:55 PM Justin Gua <<u>justingua2020@gmail.com</u>> wrote:

Hello, my name is Justin Gua. Can you call me at either 509-429-1058 or 509-826-1558 as soon as possible, please. Thank you.

Sincerely,

Justin Gua

| From:    | <u>Kildahl, Jeff (LCB)</u>              |
|----------|---|
| To:      | West, Cassidy (LCB)                     |
| Cc:      | LCB DL Rules                            |
| Subject: | RE: Liquor and Cannabis Board           |
| Date:    | Wednesday, December 13, 2023 8:54:11 AM |
|          |   |

FYI I called Mr. Gua yesterday afternoon, and he asked a several questions about "why we had just this year changed 314-55-083 and traceability" and insisted it had been changed in the past few months. I explained to him that the section had not changed recently. He was very guarded and seemed to say he had been an employee of a licensee. I think he may have some contact going on with Enforcement and may be looking for info to support his understanding of the rules in this area.

Jeff Kildahl Regulatory Analyst Washington State Liquor and Cannabis Board 360-480-7960 jeff.kildahl@lcb.wa.gov

From: West, Cassidy (LCB) <cassidy.west@lcb.wa.gov>
Sent: Monday, December 11, 2023 4:10 PM
To: Justin Gua <justingua2020@gmail.com>
Cc: LCB DL Rules <rules@lcb.wa.gov>
Subject: RE: Liquor and Cannabis Board

Justin,

Thanks for reaching out. Could you please provide more information about what this is regards to so I can make sure you're connected with the right person.

Kind regards,

Cassidy West, MPA Policy and Rules Manager Director's Office Washington State Liquor & Cannabis Board Email <u>cassidy.west@lcb.wa.gov</u> | Cell (360) 878-4235

From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 11, 2023 2:52 PM
To: West, Cassidy (LCB) <<u>cassidy.west@lcb.wa.gov</u>>
Subject: Liquor and Cannabis Board

# External Email

Hello, my name is Justin Gua. Can you call me at either 509-429-1058 or 509-826-1558, please. Thank you.

Sincerely,

Justin Gua

Justin,

Tierney Hamilton-Steele is an administrative assistant who can help schedule a time if you'd like to connect with me directly, her email is: <u>tierney.hamilton@lcb.wa.gov</u>. Or, for a quicker response either from me or someone on the rules team, please email <u>rules@lcb.wa.gov</u>.

<u>Click here</u> to sign up for rulemaking updates to be sent to your email.

Information about submitting a petition for rulemaking: <u>https://lcb.wa.gov/laws/petition-for-rulemaking</u>

#### Laws and Rules webpage, so you can stay up to date with what is happening:

https://lcb.wa.gov/laws/laws-and-rules

- There are some petitions on this page that people have submitted as examples for what information to include.
- The gray side bar on the left has a lot of resources, including ways to participate in rulemaking, current rules we are working on, recent rulemaking (rules that were recently adopted), current outreach/engagement events, policy and interpretive statements, and you can submit policy suggestions.

# Overview of the rulemaking process and ways to engage/participate in the rulemaking process: <u>https://lcb.wa.gov/laws/laws-and-rules</u>

• Information about how to participate in the rulemaking process: <u>https://lcb.wa.gov/sites/default/files/publications/Cannabis/GovDelivery%20Links/Rulem</u> <u>aking%20Process.pdf</u>

# Changes to WAC 314-55-083 (2013 - current)

- <u>2022</u> Rulemaking to change the word "marijuana" to "cannabis" (<u>WSR 22-14-111</u>). Effective date of rule was on 7/6/2022.
- <u>2018</u> <u>WSR 18-22-055</u> Effective date of rule was on 12/1/2018.
- <u>2016 WSR 16-11-110</u> Effective date of rule was on 6/18/2016.
- <u>2015</u> <u>WSR 15-11-107</u>. Effective date of rule was on 6/20/2015.
- <u>2014</u> <u>WSR 14-07-116</u>. Effective date of rule was on 4/19/2014.
- <u>2013</u> Section created to implement I-502. Click here to see the original rule language (WSR <u>13-21-104</u>). Effective date of rule was on 11/21/2013.

Thanks,

Cassidy West, MPA Policy and Rules Manager Director's Office Washington State Liquor & Cannabis Board Email <u>cassidy.west@lcb.wa.gov</u> | Cell (360) 878-4235

| From:    | Hamilton-Steele, Tierney A (LCB)      |
|----------|---------------------------------------|
| То:      | Laflamme, Denise M (LCB)              |
| Subject: | FW: Re:                               |
| Date:    | Tuesday, February 27, 2024 9:36:27 AM |

From: Hamilton-Steele, Tierney A (LCB)
Sent: Monday, December 18, 2023 3:37 PM
To: Justin Gua <justingua2020@gmail.com>
Cc: West, Cassidy (LCB) <cassidy.west@lcb.wa.gov>
Subject: RE: Re:

Justin,

I'm sorry for any confusion, but I am not able to help you beyond scheduling time with Cassidy. I've copied Cassidy on this email so it can be at the top of her inbox when she returns.

Thank you, Tierney

From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 18, 2023 3:34 PM
To: Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>>
Subject: Re: Re:

# External Email

I believe her statement says if it is "Urgent." She also told me on the phone last week that if I had questions that you would be able to answer them. She said that you knew everything about the department.

On Mon, Dec 18, 2023, 3:23 PM Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>> wrote:

Justin,

Cassidy has been out today and not taking phone calls, so I'm uncertain who you may have spoken to at the LCB. Her email states specifically to reach out to me if you wanted a meeting scheduled, but you can feel to direct your questions to <u>Rules@lcb.wa.gov</u>, otherwise I hope you'll hear from her before the end of the week. Please do let me know if you would like a virtual meeting scheduled with her and I can get something on calendars.

Thank you, Tierney From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 18, 2023 3:13 PM
To: Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>>
Subject: Re: Re:

# External Email

Cassidy had informed me that if I had any questions then to reach out to you. She said you would be able to answer any questions that related to the Rules Coordinator Department of the Liquor and Cannabis Board for the State of Washington. I had previously spoken to her earlier today and she told me to contact you.

Sincerely,

Justin Gua

On Mon, Dec 18, 2023, 3:02 PM Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>> wrote:

Justin,

I can't speak to anything about the rulemaking, I'm the administrative assistant that schedules meetings for the Rules team – I apologize if Cassidy's message was unclear. That being said, Cassidy is out today, so if you're waiting on a response from her, she will likely be replying to you later this week, once she returns.

Thank you, Tierney

From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 18, 2023 2:53 PM
To: Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>>
Subject: Re:

# External Email

This is in regard to Cassidy stating that if I had any questions that I needed to contact you. Can you contact me at either 509-429-1058 or 509-826-1558, please. Thank you.

Sincerely,

#### Justin Gua

On Mon, Dec 18, 2023, 2:48 PM Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>> wrote:

Hi Justin,

Is this regarding the attached email message/setting up a call with Cassidy? If so, we can get a date/time set for you to meet virtually with her in the near future, just let me know some windows of time that work best for you.

Thank you, Tierney

From: Justin Gua <justingua2020@gmail.com>
Sent: Monday, December 18, 2023 2:40 PM
To: Hamilton-Steele, Tierney A (LCB) <<u>tierney.hamilton@lcb.wa.gov</u>>
Subject:

# External Email

Hello, my name is Justin Gua. Can you contact me immediately at either 509-429-1058 or 509-826-1558, please. Thank you.

Sincerely,

Justin Gua

From: "West, Cassidy (LCB)" <<u>cassidy.west@lcb.wa.gov</u>>
To: Justin Gua <<u>justingua2020@gmail.com</u>>
Cc: LCB DL Rules <<u>rules@lcb.wa.gov</u>>
Bcc:
Date: Sat, 16 Dec 2023 01:23:29 +0000
Subject: Rule information and evolution of changes to WAC 314-55-083 (2013 - current)
Justin,

Tierney Hamilton-Steele is an administrative assistant who can help schedule a time if you'd like to connect with me directly, her email is: <u>tierney.hamilton@lcb.wa.gov</u>. Or, for a quicker response either from me or someone on the rules team, please email <u>rules@lcb.wa.gov</u>.

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Laws and Rules webpage, so you can stay up to date with what is happening: <u>https://lcb.wa.gov/laws/laws-and-rules</u>

- There are some petitions on this page that people have submitted as examples for what information to include.
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- <u>2016</u> <u>WSR 16-11-110</u> Effective date of rule was on 6/18/2016.
- <u>2015</u> <u>WSR 15-11-107</u>. Effective date of rule was on 6/20/2015.
- <u>2014</u> <u>WSR 14-07-116</u>. Effective date of rule was on 4/19/2014.
- <u>2013</u> Section created to implement I-502. Click here to see the original rule language (WSR 13-21-104). Effective date of rule was on 11/21/2013.

Thanks,

Cassidy West, MPA Policy and Rules Manager Director's Office Washington State Liquor & Cannabis Board Email <u>cassidy.west@lcb.wa.gov</u> | Cell (360) 878-4235