



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – (WAC 314-55-083) Reversing 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 [WAC 314-55-083](#) 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.

 <p>PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE</p> <p>Print Form</p> <p>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.</p> <p>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.</p> <p>CONTACT INFORMATION <i>(please type or print)</i></p> <p>Petitioner's Name <u>Justin Gua</u></p> <p>Name of Organization _____</p> <p>Mailing Address <u>P.O. Box 1789</u></p> <p>City <u>Omak</u> State <u>Wa.</u> Zip Code <u>98841</u></p> <p>Telephone <u>509-826-1558</u> Email <u>justingua2024@gmail.com</u></p> <p>COMPLETING AND SENDING PETITION FORM</p> <ul style="list-style-type: none"> • 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. <p>INFORMATION ON RULE PETITION</p> <p>Agency responsible for adopting or administering the rule: <u>Washington State Liquor and Cannabis Board</u></p> <p><input type="checkbox"/> 1. NEW RULE - I am requesting the agency to adopt a new rule.</p>	<p><input type="checkbox"/> 2. AMEND RULE - I am requesting the agency to change an existing rule.</p> <p>List rule number (WAC), if known: <u>WAC 314-55-083</u></p> <p><input checked="" type="checkbox"/> I am requesting the following change: <u>I believe there may have been a change of language. Requesting for change back to the previous language.</u></p> <p><input type="checkbox"/> This change is needed because: _____</p> <p><input type="checkbox"/> The effect of this rule change will be: _____</p> <p><input checked="" type="checkbox"/> The rule is not clearly or simply stated: _____</p>
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LCB rules staff had multiple email and phone conversations with the Petitioner in an attempt to understand his repeated stated concerns.

Issue

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.

Analysis

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 initiates the rulemaking proceedings to consider amending rules, consistent with the Administrative Procedures Act ([Chapter 34.05 RCW](#)). 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 [WSR 13-21-104](#) on 10/21/2013 and became effective on 11/21/2013.
- In 2014, amendments were made to the section, filed as [WSR 14-07-116](#), 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 [WSR 15-11-107](#), 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 [WSR 16-11-110](#), and became effective on 6/18/16:
 - Subsection (1) was amended to specify information required on identification badges, that all licensees 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 [WSR 18-22-055](#), 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 [WSR 22-14-111](#), 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.

<input type="checkbox"/> Accept <input type="checkbox"/> Deny	<i>Not Present</i> David Postman, Chair	<u>3.27.2024</u> Date
<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Deny	 Ollie Garrett, Acting Chair	<u>3.27.2024</u> Date
<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Deny	 Jim Vollendroff, Board Member	<u>3.27.2024</u> Date

- Attachments:
1. Petition form
 2. Emails