



## Petition for Adoption, Amendment, or Repeal of a State Administrative Rule

**Topic:** Request to Amend [WAC 314-55-115](#) related to flexible payment terms

**Date:** November 20, 2024

**Presenter:** Cassidy West, Policy and Rules Manager

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### BACKGROUND

On October 14, 2024, Fabian Toader, representing Green Labs, LLC, submitted a petition for amendment, repeal, or adoption of a state administrative rule to the Washington State Liquor and Cannabis Board ("Board") requesting amendments to WAC 314-55-115. This petition pertains to the recently amended rule requiring checks be deposited within five days of delivery. The Petitioner seeks a reconsideration of the five-day rule, proposing an extension to a 15-day window instead. The petition request and its supplemental materials are enclosed (see Attachment A).

The newly amended rule mandates that checks be sent, delivered, or mailed by the next business day following delivery and deposited as promptly as reasonably practical but no later than five business days after delivery. Any delay beyond this time may be considered an unlawful extension of credit.

The Petitioner has expressed concerns about the practical challenges meeting the new five-day deposit rule, citing geographical constraints. He argues that the requirement to deposit checks within five days of delivery imposes an undue administrative burden and potential for non-compliance. According to the Petitioner, the current process takes his business 12-15 days from receipt to deposit.

### ISSUE

Whether the Board should accept or deny the petition request to amend WAC 314-55-115 to extend the time allowed for depositing checks after delivery.

### ANALYSIS

When making recommendations to the Board, LCB staff consider several key factors to ensure decisions are legal, practical, evidence-based, and align with the agency's goals. These factors include:

- **Legal Authority:** Confirm agency's legal power.
- **Economic Impact:** Evaluate financial implications.
- **Equity Assessment:** Assess impacts on economic, health, and social equity.

- **DEIB Assessment:** Analyze diversity, equity, inclusion, and belonging.
- **Public Health:** Examine public health implications.
- **Risk Assessment:** Identify and assess risks.
- **Agency Coordination:** Coordinate with relevant agencies.
- **Tribal Considerations:** Address Tribal concerns and rights.
- **Public Input:** Consider stakeholder perspectives and concerns.
- **Policy Alignment:** Ensure policy consistency.
- **Security Considerations:** Evaluate security implications.

### Legal Authority

The Board has rulemaking authority to adopt rules to amend WAC 314-55-115 under [RCW 69.50.342](#) and [RCW 69.50.345](#). The full text of relevant laws and rules are enclosed (see Attachment B).

### Policy Alignment

The agency recently completed a rulemaking process fully compliant with the Administrative Procedure Act (APA) ([RCW 34.05](#)). This initiative aimed to provide cannabis licensees with greater flexibility when buying cannabis and cannabis products from other licensees. Throughout the rule development process, multiple opportunities for stakeholder engagement were offered.

Timeline of Rulemaking Activities:

- **May 8, 2024:** The CR-101 was filed as [WSR 24-11-035](#), marking the initiation of the rulemaking process. A GovDelivery notice was distributed notifying the public. During the May 8 board meeting, the rules coordinator Daniel Jacobs stated that stakeholder feedback would be obtained via a survey that would be posted on the agency website during June 2024.
- **June 3, 2024:** GovDelivery notice emailed informing public of live survey that would be available to complete until July 8, 2024. The invitation to the survey included a link to proposed draft rule language.
- **June 3 – July 8, 2024:** Survey live on LCB website for completion.
- **July 31, 2024:** The CR-102 was filed as WSR [24-16-063](#), officially starting the formal public comment period.

- **September 11, 2024:** A public hearing was held to gather input on the draft proposed rule, which also served as the deadline for submitting formal written comments.
- **September 25, 2024:** The CR-103 was filed as [WSR 24-20-055](#).
- **October 26, 2024:** Effective date of rules.

### **Stakeholder Input**

Stakeholder input on the five-day check deposit requirement was minimal. Survey results did not highlight any specific concerns about the deposit timeframe. During the public hearing, two stakeholders asked that there be no deadline for depositing checks. This request was not reflected in the final rule due to the indefinite nature it would introduce for check payments, including impacting regulatory consistency and accountability.

### **Merits of the Petition**

While we acknowledge the Petitioner’s concerns, the petition does not provide sufficient data-driven evidence to justify reopening the rulemaking process.

### **Potential Benefits, Costs, & Impacts**

The Petitioner proposes conducting feasibility studies to assess the practical implications of the rule on businesses like his. The Board has already committed to a retrospective review of the amended rule after one year to evaluate its effectiveness and impacts.

### **CONCLUSION**

In conclusion, the rulemaking process was conducted in full compliance with the [Administrative Procedure Act \(APA\)](#), providing multiple opportunities for public comment. The rule was adopted after careful consideration of all feedback received. While we recognize the Petitioner’s concerns, the petition lacks compelling data-driven evidence to justify reopening the rulemaking process. Additionally, the Board is committed to conducting a retrospective review of the amended rule in one year to assess its effectiveness and impact.

### **RECOMMENDATION**

For the reasons described above, Director’s Office staff recommend that consistent with [RCW 34.05.330](#), the Board deny the petition submitted by Fabian Toader on October 14, 2024 requesting amendments to WAC 314-55-115 regarding the requirement that the check be deposited no later than five business days following delivery.

## BOARD ACTION

After considering the recommendation of Director's Office staff, the Board accepts/denies the petition for rulemaking received from Fabian Toader on October 14, 2024, requesting amendments to WAC 314-55-115 to amend the five-day deposit requirement.

\_\_\_\_\_ Accept      \_\_\_\_\_ Deny      \_\_\_\_\_  
David Postman, Chair      Date

\_\_\_\_\_ Accept      \_\_\_\_\_ Deny      \_\_\_\_\_  
Ollie Garrett, Board Member      Date

\_\_\_\_\_ Accept      \_\_\_\_\_ Deny      \_\_\_\_\_  
Jim Vollendroff, Board Member      Date

## ATTACHMENTS

1. Attachment A: Petition Request & Supplemental Materials
2. Attachment B: Laws and Rules