

WSR 21-15-098
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE
[Filed July 20, 2021, 8:49 a.m.]

Subject of Possible Rule Making: As a result of recently passed legislation (ESB 5372, chapter 104, Laws of 2021), the department is establishing in rule a voluntary program to certify hemp extract. Along with detailing the process to certify a hemp processor's compliance with Washington's inspection and good manufacturing practices requirements, the department will also set appropriate cost-recovery fees necessary to administer this program in rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.07.020(4), 15.130.120(2); and chapter 104, Laws of 2021 (ESB 5372).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The new law defines "hemp extract" as a substance or compound intended for human ingestion that is derived from, or made by, processing hemp. While hemp extract is not currently an approved food ingredient at the federal level or in Washington state, the legislature directed the agency to create a voluntary certification process for hemp processors who manufacture hemp extract products for use as a food ingredient in states that do allow its use as a food ingredient. This will help to facilitate interstate shipments of hemp extract products to other states which have requirements for hemp processors to be licensed or registered for this purpose. Hemp extract producers who want to achieve voluntary certification must comply with inspection and sanitation requirements established in rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None. Hemp extract products remain prohibited at the federal and Washington state level by the Food and Drug Administration as a food or food ingredient. The department's food safety and hemp programs will coordinate to the extent necessary to minimize regulatory overlap.

Process for Developing New Rule: Department staff will discuss proposed amendments with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David Smith, Food Safety Program Manager, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1876, fax 360-902-2087, TTY 800-833-6388, email hempfoodsafety@agr.wa.gov, website agr.wa.gov/departments/food-safety/food-safety; or David Erho, Assistant Program Manager, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone 509-393-4270, TTY 800-833-6388, email hempfoodsafety@agr.wa.gov.

July 20, 2021
Steve Fuller
Assistant Director