



EXPEDITED RULE MAKING

CR-105 (August 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: November 20, 2019

TIME: 11:06 AM

WSR 19-23-095

Agency: Dept. of Agriculture

Title of rule and other identifying information: (describe subject) Chapter 16-306 WAC, Hemp Program.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to adopt rules for a new licensing and regulatory program for hemp production in accordance with the Agricultural Improvement Act of 2018 and Engrossed Second Substitute Senate Bill 5276 (E2SSB 5276) which will include a licensing component and related fees, program administration and testing criteria and protocol. The Department also intends to repeal Chapter 16-305 WAC, Industrial Hemp Research Pilot, in accordance with Section 15 of E2SSB 5276 effective January 1, 2020.

Reasons supporting proposal: The Legislature passed Chapter 158, laws of 2019 to authorize the Department to develop an agricultural commodity program to replace the industrial hemp research pilot program, in accordance with the Agricultural Improvement Act of 2018. The Industrial Hemp Research Pilot is repealed under Section 15 of E2SSB 5276 "effective January 1, 2020." The bill allows the Department to use expedited rulemaking to adopt the state hemp plan submitted to the United States Department of Agriculture (USDA).

Statutory authority for adoption: RCW 15.140.030

Statute being implemented: Chapter 15.140 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION: 7 CFR Part 990

Name of proponent: (person or organization) Washington State Department of Agriculture.

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Aspen Humiston	1111 Washington St SE, Olympia, WA 98504	360-902-1931
Implementation:	Jessica Allenton	1111 Washington St SE, Olympia, WA 98504	360-902-1828
Enforcement:	Jessica Allenton	1111 Washington St SE, Olympia, WA 98504	360-902-1828

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): E2SSB 5276 Sec 11 states that "the Department must use expedited rulemaking to adopt the state hemp plan submitted to the United States department of agriculture. Upon submittal of the plan to the USDA, the Department may conduct initial expedited rule making under RCW 34.05.353 to establish rules to allow hemp licenses to be issued without delay."

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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Other:

AND RECEIVED BY (date) 1/21/2020

Date: 11/20/2019	Signature: 
Name: Jessica Allenton	
Title: Assistant Director	

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-305-010	Purpose of chapter.
WAC 16-305-015	Activities outside the scope of enforcement.
WAC 16-305-020	Industrial hemp research program goals.
WAC 16-305-030	Definitions.
WAC 16-305-040	Industrial hemp license application.
WAC 16-305-050	Qualifications of applicants.
WAC 16-305-060	Industrial hemp grower license.
WAC 16-305-070	Industrial hemp processor and marketer license.
WAC 16-305-080	Industrial hemp combination license.
WAC 16-305-090	Industrial hemp distributor license.
WAC 16-305-100	Industrial hemp importer certificate.
WAC 16-305-110	Industrial hemp business licenses and taxes.
WAC 16-305-120	Suspension of industrial hemp licenses for noncompliance with a child support order.
WAC 16-305-130	Fit for commerce certification.
WAC 16-305-140	Transporting industrial hemp.
WAC 16-305-150	Industrial hemp seed and propagules.
WAC 16-305-160	Industrial hemp data and reporting requirements.
WAC 16-305-170	Records retention.
WAC 16-305-180	Industrial hemp for human consumption.
WAC 16-305-190	Industrial hemp inspection and sampling criteria.
WAC 16-305-200	Industrial hemp lab testing criteria.
WAC 16-305-210	Industrial hemp testing fees.
WAC 16-305-220	Industrial hemp license fees.
WAC 16-305-230	Industrial hemp noncompliance for THC concentration.
WAC 16-305-240	Scope of enforcement.
WAC 16-305-242	Enforcement actions subject to availability of funds.
WAC 16-305-245	Determination of civil penalties and license enforcement penalties.
WAC 16-305-250	Monetary penalties, license denial, suspension or revocation, and right to adjudicative proceeding.
WAC 16-305-251	Category 1 violations.
WAC 16-305-252	Category 2 seed distributor violations.

WAC 16-305-253	Category 3 grower or processor violations.
WAC 16-305-254	Category 4 license violations.
WAC 16-305-255	Category 5 regulatory violations.
WAC 16-305-256	Penalty for failure to follow industrial hemp destruction order.
WAC 16-305-257	Other dispositions of alleged violations that the department may choose.
WAC 16-305-260	Venue for legal action.