

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Hemp Licensing Regulations FAQs

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

DEADLINE FOR SUBMISSION

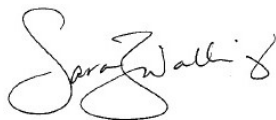
The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. ch.94.55, Wis. Admin. Code, ch. 22.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



Sara Z. Walling
Administrator
Division of Agricultural Resource Management



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GUIDANCE DOCUMENT

Hemp Licensing Regulations FAQs

This guidance document is based on Wis. Stat. ch. 94.55 and chapter(s) ATCP 22 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

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Printed document that is also available on the DATCP website that is a detailed frequently asked questions document. The document has information regarding hemp grower and processor licensing and regulations.

Attached is the full document

<https://datcp.wi.gov/Documents/HempFAQLicensing.pdf>

Sara Walling - Administrator, Division of Agricultural Resource Management

May 13, 2020

DATE

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Wisconsin Hemp Pilot Research Program



Grower and Processor Licensing and Regulations

Wisconsin's hemp pilot research program is permitted under federal ([2014 Farm Bill](#)) and state ([Wis. Stat. § 94.55](#)) laws. Below are answers to frequently asked questions about the hemp pilot research program. This information is a guide. If you have questions, contact the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) Hemp Pilot Research Program by phone (844) 449-4367 (toll-free) or email datcpindustrialhemp@wi.gov. Information is also available at <https://hemp.wi.gov>.

General

1. What is hemp?

Under federal ([2014 Farm Bill](#)) and state ([Wis. Stat. § 94.55](#)) laws, industrial hemp was defined as the plant with the Latin species name *cannabis sativa* L., with a delta-9 THC concentration of 0.3 percent or less in all parts of the plant when it has been dried.

The laws were updated with the [2018 Farm Bill](#) and [2019 Wis. Act 68](#) that removed the word "industrial" and now defines hemp as the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 THC concentration of not more than 0.3 percent on a dry weight basis.

2. What is THC?

THC stands for delta-9 tetrahydrocannabinol.

3. How is hemp grown?

The University of Wisconsin-Madison, Division of Extension provides education and resources for growing hemp at <https://fyi.extension.wisc.edu/hemp/>.

4. How do I legally grow or process hemp in Wisconsin?

You must have a license and annual registration issued by DATCP before you can grow or process hemp. To get a license application, visit https://datcp.wi.gov/Pages/Programs_Services/IHLicRegFee.aspx.

Licensing and Registration

5. What is a grower license?

To grow hemp you need a grower license and annual registration from DATCP. The license and registration are required if you are growing hemp starter plants, hemp micro-greens, or any hemp that may be grown for personal use.

6. What is a processor license?

To process hemp from a licensed grower, you need a processor license and annual registration from DATCP.

You do not need a processor license and registration if you only process hemp that you grew.

7. What is hemp processing?

Processing hemp includes:

- Converting hemp to a marketable form
- Handling, drying or curing, trimming, and packaging raw hemp flower
- Extracting cannabinoids
- Producing hemp cigarettes

8. How do I apply for a license?

Fill out an application and submit it with your licensing fee payment to DATCP. Applications and current fee information is available at https://datcp.wi.gov/Pages/Programs_Services/IHLicRegFee.aspx.

9. Do I have to be a Wisconsin resident to get a license?

No, but the land where you grow hemp or the location where you process must be in Wisconsin.

10. Can I grow or process hemp under someone else's license and registration?

No. The person who is doing the growing or processing of hemp needs to be the license holder and is the person who signed the research agreement.

11. Can I have a list of licensed hemp growers and processors?

No. State law does not allow DATCP to release this information. Growers or processors may release this information themselves.

Changes in state law ([Wis. Stat. § 95.44](#) as included in [2019 Wis. Act 68](#)) allow DATCP to ask for a licensee's consent to share some information. DATCP is preparing to implement this request for consent. If licensee information is available to share, DATCP will post this on its website.

12. How long does my license last?

Licenses and registrations will expire on October 31, 2020.

13. When can I apply for a license and registration?

For the 2020 growing season, the licensing application period opened on November 1, 2019. Returning licensees who register after March 1, 2020 will have a late fee. New licensees can apply any time.

14. What do the licensing and registration fees cover?

Fees cover the cost of implementing the program, including administration, sampling, and testing.

15. Who is a license contact?

This is when a licensee designates a contact person(s) for the hemp license holder. Due to confidentiality, DATCP can only provide license information to someone who is the license holder, operations manager, or license contact. If you are the licensee or operations manager, and need to add or remove a person as a license contact, contact DATCP.

16. Who is the operations manager?

If you apply for a hemp license as a business, the operations manager is the person who the background check is performed on, and who is legally responsible for the hemp operations. If your licensed business needs to change their operations manager, contact DATCP.

17. What type of convictions disqualify me in the background check?

An applicant or an operations manager may not have a conviction for a criminal violation of the Federal Controlled Substances Act under 21 USC 801 to 971, Wis. Stat. § 961, or any controlled substances law of another state. If you are unsure if your conviction violates this standard, consult with a legal professional.

18. What is the research agreement and why is it required?

The 2014 Farm Bill allowed universities and state departments of agriculture to conduct hemp pilot research programs. The research agreements extend the Wisconsin Hemp Pilot Research Program to individual growers and processors, allowing them to do applied research throughout Wisconsin under a variety of growing conditions. You must sign and date the research agreement as part of the application process for the annual registration.

19. What is the research plan or research summary?

This is a research pilot program, so applicants must include a research plan to qualify for a license. Research topics may include planting, harvesting and processing techniques; seed varieties; nutrient requirements; markets; storage; non-chemical pest and weed control; or other topics that participants choose. A concise research plan may be submitted on the forms provided by DATCP, or you can attach a more detailed plan.

20. How can I keep my license in good standing?

For growers:

- Plant an approved variety
- Submit your planting report(s) accurately and on time
- Submit your 30-day harvest notification(s) accurately and on time
- Destroy any non-compliant lot of hemp

For both growers and processors:

- Keep required records. See [Wis. Admin. Code § ATCP 22.05](#) for requirements.
- Submit the appropriate final report accurately and on time.
- Follow all applicable state, federal, and local laws.

21. What other licenses do I need for growing or processing hemp?

Depending on what you are doing with the hemp you grow or process, you may need additional licenses or certificates from different regulatory programs at either DATCP or another agency. More information about other possible licenses you may need is available in a separate handout at <https://datcp.wi.gov/Documents/HempRegulatoryResources.pdf>.

Licensee Reporting

22. What is a planting report?

A planting report informs DATCP about the hemp that you plant at each lot. A planting report must be submitted within 30 days of planting hemp in any lot. You must submit your planting report information for each planting of each variety or strain at each lot. Check with DATCP's Hemp Program for the most up-to-date instructions for submitting your planting report.

By July 1, 2020, submit a planting report. If you do not anticipate planting hemp by July 1, 2020, submit a planting report indicating that you have not planted hemp yet. If you are a licensed hemp grower and if you have a current annual registration and you have not submitted a planting report by July 1, 2020, your license may be revoked.

If you plant hemp after July 1, 2020, you must submit a planting report within 30 days of planting hemp in any lot. See DATCP's website for planting report submittal instructions https://datcp.wi.gov/Pages/Programs_Services/IHRecords.aspx. DATCP may suspend your license if you do not submit the required planting reports.

23. What is a 30-day harvest notification?

This is separate from the planting report and it informs DATCP that you are preparing to harvest a specific lot of hemp. **You must submit notification 30 days before your intended harvest date for each lot of hemp.** This allows DATCP to plan for your regulatory hemp sample and the thousands of

other regulatory hemp samples that are taken each year. See DATCP's website for the 30-day harvest notification submittal instructions https://datcp.wi.gov/Pages/Programs_Services/IHInspectionTest.aspx. Your license could be revoked if you do not submit this notification.

24. What is a final report?

This is the last report of the season and it includes information about all of your growing or processing activities during that growing season.

For *growers*, this report collects the following:

- Total acres harvested
- Final production quantity
- Name(s) and license number(s) of any processor who received your hemp
- Final use of the hemp you produced

For *processors*, the report collects the following:

- Total quantity of hemp received
- List of quantity and license number for each transfer of hemp from the licensee
- Description of all intended markets for the hemp processed

DATCP will not register you for the succeeding season if you have not filed your end of year final production report.

Growing Locations

25. Do I have to own the land I want to grow hemp on?

No. You can grow hemp on rented land as long as the landowner consents, and understands that DATCP will perform routine inspections and sample plants in the fields. The license holder must be the person who is growing the hemp. If you plant hemp on rented land, you must provide DATCP with the landowner's name and contact information on your application form or license amendment form.

26. Can I grow hemp in a greenhouse?

Yes, as long as you clearly indicate your research goals and production methods on your application.

27. Can I grow or process hemp in my home?

DATCP does not restrict hemp growing locations, but any growing location must be fully compliant with any applicable local, state, or federal codes, rules, or laws. When it comes time to have the required, pre-harvest regulatory sample of the hemp that you have grown, DATCP hemp sampling

staff cannot conduct sampling work in residence or a location that poses a safety risk.

You are responsible for understanding local laws (including zoning ordinances and building codes), state laws, and federal laws, or for consulting an attorney on these matters.

28. Can I grow or process hemp near a school, town, or major road? Are there restrictions on where I can grow it?

DATCP does not restrict hemp production locations, but you may be subject to township, city, or other municipal zoning rules prohibiting hemp in certain locations, including backyards in residential neighborhoods. You are responsible for understanding local laws (including zoning ordinances and building codes), state laws, and federal laws, or for consulting legal help on these matters.

29. Can I change my field locations or add a growing or processing site?

To change field locations, you must:

- Submit a license amendment form to change, add, or remove a location
- Provide new GPS coordinates
- Submit a license amendment fee

Check DATCP's website at https://datcp.wi.gov/Pages/Programs_Services/IHR_records.aspx for the most up-to-date instructions on submitting license amendments.

30. Is there a minimum acreage requirement?

While DATCP does not require a minimum acreage, growers must have a minimum of 15 female plants available for a pre-harvest regulatory sample at the end of the growing season.

31. Do I need to build a fence or post signs around my field?

No.

32. Do I need to notify the sheriff or local police?

No. Once you register your hemp growing or processing location(s), DATCP will share your location and contact information with law enforcement on a regular basis. For this reason, it is essential that you provide accurate location information and maps and update your license if you need to change growing, storage, or processing locations. This saves the grower and

processor from unwanted attention, and saves law enforcement time and money on unnecessary investigations. Make sure all locations where hemp will be grown, stored, or processed are registered with DATCP prior to planting, storing, or processing the hemp.

Moving Hemp: Transporting, Exporting, and Importing

33. Can I sell my unprocessed hemp in other states?

Only lawfully produced hemp can be sold and transported within Wisconsin or from state-to-state. You are responsible for understanding federal law and other state laws, or for consulting legal help on these matters.

34. Can I process hemp imported from growers in other states?

Licensed processors with a current annual registration in Wisconsin may accept lawfully produced unprocessed hemp. Unprocessed hemp must be accompanied by documentation provided by a hemp research pilot program, or a U.S. Department of Agriculture (USDA) hemp producer license, or a state or tribal plan approved by USDA; and this documentation must demonstrate that the hemp tested at or below 0.3% THC.

35. What are the requirements for transporting hemp?

Hemp grown in Wisconsin:

When transporting Wisconsin grown hemp, under state law (Wis. Admin. Code § ATCP 22.13) the hemp must be accompanied with the following documents:

- A copy of the fit for commerce certificate(s) for the hemp being transported.
- A copy of the grower license or processor license that designates the owner of the hemp being transported.

Hemp not grown in Wisconsin:

Wisconsin transportation requirements would not apply to state-to-state transportation of hemp. However, harvested hemp found in Wisconsin without a fit for commerce certificate is subject to seizure by DATCP under state law [Wis. Admin. Code § ATCP 22.12(4)]. Paperwork from the origin state or tribal hemp program should be included with a hemp shipment to show that the hemp was legally grown. This includes the equivalent to a license and fit for commerce certificate. You are

responsible for understanding federal law and other state laws, or for consulting legal help on these matters.

Federal law (7 C.F.R. § 990.63) states that no state or Native American tribe may prohibit state-to-state transportation or shipment of lawfully produced hemp or hemp products. This applies to hemp lawfully produced under a hemp research pilot program, or a USDA hemp producer license, or a state or tribal plan approved by USDA.

Interstate (state-to-state) commerce (buying and selling of goods) for hemp is regulated by the federal government. Contact the USDA hemp program with interstate hemp commerce questions at farmbill.hemp@usda.gov.

U.S. Postal Service (USPS) information about shipping hemp is available at https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm.

Financial Impacts

36. How does growing hemp affect my USDA Farm Service Agency (FSA) and/or federal crop insurance contracts or program participation?

The 2018 Farm Bill recently defined hemp as an agricultural commodity, so federal agencies no longer consider hemp to be a controlled substance. Crop insurance for hemp crops has also become available but there are a number of specific eligibility requirements and deadlines to qualify. For more information go to:

<https://www.farmers.gov/manage/hemp>. A base requirement is that you hold a current DATCP hemp grower license and registration. If you are thinking of planting hemp, you should check with your local FSA service center to see if your access to federal crop support programs might be affected by growing hemp.

37. Does DATCP have any grants for growing hemp?

No, but DATCP may provide some business development assistance. Please see the DATCP grants webpage detailing potential grants and funding opportunities https://datcp.wi.gov/Pages/Programs_Services/Grants.aspx.

Other agencies or organizations may offer grants or other financial assistance. If you accept grants,

there may be additional reporting and other requirements beyond those you must meet to participate in the pilot research program. This does not relieve you of any of your responsibilities within the hemp pilot research program.

38. What price can I expect to receive when I sell my hemp?

Prices for hemp flower, grain, fiber, oils, and CBD are fluctuating widely in the U.S. because the industry is in a very early stage and continuously evolving. You should research potential markets and current market analysis before you plant.

39. Who will buy my hemp if I grow it?

Growers are responsible for finding markets. To learn more about marketing opportunities, contact a hemp trade group such as the Hemp Industries Association or the National Hemp Association.

40. What if I can't or don't want to sell my hemp at the end of the growing season?

If you do not sell your hemp at the end of the growing season, you can store your crop and sell it after your hemp grower annual registration has expired, but you must keep the following for each lot:

- Copy of your license, showing the appropriate annual registration
 - Fit for commerce certificate
- These documents must accompany each lot during transportation.

Resources

You can learn more about hemp through these resources:

- DATCP Hemp Program: <https://hemp.wi.gov>
- University of Wisconsin-Madison, Division of Extension: <https://fyi.extension.wisc.edu/hemp/>
- USDA:
 - <https://www.usda.gov/topics/hemp>
 - <https://www.farmers.gov/manage/hemp>
 - <https://www.ams.usda.gov/services/grants>



**Wisconsin Department of Agriculture,
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Division of Agricultural Resource
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