

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 Flower: Retail Bulk Sales

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

[https://datcp.wi.gov/Pages/About Us/GuidanceDocuments.aspx](https://datcp.wi.gov/Pages/About%20Us/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](https://datcp.wi.gov/Pages/About%20Us/GuidanceDocuments.aspx)

DEADLINE FOR SUBMISSION

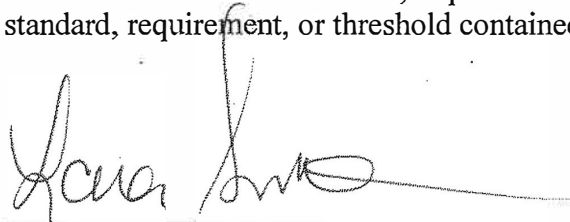
The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

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. 98, Wis. Admin. Code, chs. 90 and 91.

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.



Lara Sutherland
Administrator
Division of Trade and Consumer Protection



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GUIDANCE DOCUMENT

Hemp Flower: Retail Bulk Sales

This guidance document is based on Wis. Stat. ch. 98 and chapter(s) ATCP 90 and 91 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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August 15, 2019

Lara Sutherland - Administrator, Division of Trade and Consumer Protection

DATE

Contributors:



Hemp Flower: Retail Bulk Sales

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RESOURCES

Wis. Admin. Code ATCP 90

https://docs.legis.wisconsin.gov/code/admin_code/atcp/090/90.pdf

Wis. Admin. Code ATCP 91

https://docs.legis.wisconsin.gov/code/admin_code/atcp/090/91.pdf

Basics of Tare fact sheet

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

Hemp Flower and CBD Products Method of Sale and Labeling fact sheet

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

Hemp Flower Scales for Packagers fact sheet

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

Hemp Flower Scales for Retailers fact sheet

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

Direct retail sales of bulk hemp flower—where the product is weighed at the time of purchase—must comply with the following requirements: (Wisconsin Administration Code chs. ATCP 90 and ATCP 91)

- The price per unit of all bulk commodities must be advertised.
- The price of bulk commodities not in package form and sold by weight must be advertised, displayed, and computed in terms of whole units of weight (grams, kilograms, pounds, ounces, etc.), and not in common or decimal fractions. This means that product cannot be solely advertised as \$30 per 1/8 oz., or \$60 per 0.25 oz.
- If more than one type of bulk commodity is offered for sale at a retail location, the price per whole unit must be the same for each commodity. This means that if you have multiple varieties of hemp flower available, they must all be priced by the same whole unit. One variety may not be only advertised by price per gram, and the other type only by price per ounce. It is acceptable to use both units if you advertise the prices per each unit for all commodities. In addition, if you offer quantity purchase price incentives, you must post the cost per whole unit of each price range.

Examples of correct price labeling:

| Flower 1 | Flower 2 | Flower 3 |
|----------|-------------|-------------|
| \$10/g | \$12/g | \$8/g |
| \$283/oz | \$339.60/oz | \$226.40/oz |

2 unit pricing, no quantity discount. Prices are advertised in whole grams and whole ounces. The prices per gram and per ounce are in agreement.

| Flower 1 | Flower 2 |
|--------------------|--------------------|
| 0-10 grams: \$10/g | 0-10 grams: \$12/g |
| >10 grams: \$8/g | >10 grams: \$10/g |

Single unit pricing. Prices are advertised in whole grams. A quantity discount is offered and advertised correctly.

| Flower 1 | Flower 2 |
|--------------------|--------------------|
| \$10/g | \$8/g |
| (1/8 oz = \$35.38) | (1/8 oz = \$28.30) |
| (1/4 oz = \$70.75) | (1/4 oz = \$56.60) |

Single unit pricing in whole grams is sufficient and keeps it simple. If you want to advertise a fractional ounce equivalent, you may do so as long as the price point is in agreement with the cost per whole unit.

Examples of incorrect price labeling:

| Flower 1 | Flower 2 | Flower 3 |
|----------|----------|--------------|
| \$10/g | \$100/oz | \$40/ 0.5 oz |

Units are not the same for each variety and the price per unit of both units is not advertised for each variety. Also, a decimal unit is used for Flower 3.

| Flower 1 | Flower 2 | Flower 3 |
|--------------|--------------|--------------|
| \$25/ 1/8 oz | \$50/ 1/4 oz | \$80/ 1/2 oz |

Fractional units are being used. The price point is not the same.

| Flower 1 | Flower 1 | Flower 1 |
|-------------|-------------|-----------|
| 1/4 oz \$30 | 1/2 oz \$50 | 1 oz \$80 |

Even though only 1 variety of flower is being sold, the price for the entire weight range is not advertised and fractional units are being used.