

# Wisconsin's Hemp Pilot Research Program

## General Frequently Asked Questions:

Updated October 31, 2019

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is authorized by the 2014 Farm Bill and Wis. Stat. § 94.55 to regulate hemp to the point where it's been found to comply with the 0.3 percent Total delta-9 THC level, harvested, and processed into another product. After that, it is an ingredient or a fiber, and comes under regulations, if any, for the products containing it.

### What is hemp?

Under the 2014 Farm Bill and Wis. Stat. § 94.55, 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.

Under the 2018 Farm Bill, federal law 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 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis."

Wis. Stats. § 94.55(1) requires that hemp contains no more than 0.3% delta-9 THC; the statute does not prescribe a testing method

DATCP's lab uses high performance liquid chromatography (HPLC) with a calculation (Total THC = delta-9 THC + 0.877\*THCa) to achieve equivalent results to heating. THCa is included in the assessment because THCa is a precursor to delta-9 THC, and with heat converts to delta-9 THC. To get a true picture of potential human exposure to delta-9 THC requires looking at both THCa and delta-9 THC. As stated above, when heated, the precursor THCa converts to delta-9 THC.

### Is growing hemp risky?

Yes. There is inherent risk associated with participation in a research program focusing on a new crop and with participation in this research pilot program. There is no guarantee that a hemp grower's crop will pass the regulatory THC test.

### How is hemp grown?

Please note that we do not have agronomic expertise. Our role is to set up the pilot research program and regulate it. UW Extensions has a new hemp program that provides opportunities to connect and share information with fellow hemp growers and learn about the hemp agronomics. The new UW Extensions hemp program also provides additional hemp related resources. Please visit the UW Extension hemp program website at <https://fyi.extension.wisc.edu/hemp/>.

### Do I need a license to grow hemp?

Yes. You will need a one-time license and a 2020 annual registration for this year to grow any amount of hemp in Wisconsin during 2020, including hemp starter plants and any hemp that may be grown for personal use.

*This document is pursuant to Wis. Stat. § 94.55, and Wis. Admin. Code ch. ATCP 22 promulgated under the authority of Section 7606 of the Agriculture Act of 2014 (H.R. 2642; Pub. L. 113-79, also known as the 2014 Farm Bill).*

## **Will I need a license to process hemp?**

You will need a one-time license and a 2020 annual registration for this year to process hemp in Wisconsin during this year. Processing hemp includes transporting, warehousing and converting the hemp to a marketable form. Processing hemp also includes handling, trimming, and packaging raw hemp flower. A processor license is also needed if you will be packaging and labeling raw hemp for retail sale. If you will be processing only hemp that you grow, and won't be accepting it from other licensed growers, you will not need a processor license.

## **Do I need any other licenses/certificates as a grower and/or processor?**

Depending on what you are doing with the hemp you process, you may need additional licenses from the department or other another agency.

### **Food Processing**

DATCP regulates many aspects of food processing in Wisconsin. Any hemp licensees who will be using hemp or hemp extracts in food products will need a license from the DATCP Division of Food Safety. Please contact the Division of Food Safety and Recreation at 608-224-4923 or [datcpdfslicensing@wisconsin.gov](mailto:datcpdfslicensing@wisconsin.gov) for more information about those food related licensing requirements.

See the CBD related questions in this document for more information about what legally be made or sold with CBD.

### **Weights and Measures**

DATCP regulates weights and measures to ensure that consumers are receiving their money's worth in Wisconsin stores. Hemp licensees selling hemp or offering hemp for sell will need to make sure that their methods of measuring the volume or weight of their hemp are compliant with Wis. Stat. ch. 98 and Wis. Admin. Code chs. 90 and 91. For more information, please contact the DATCP Bureau of Weights and Measure at [datcpweightsandmeasures@wisconsin.gov](mailto:datcpweightsandmeasures@wisconsin.gov) or 608-224-4942. A directory of Wisconsin Weights and Measures Fact Sheets, including those specific to hemp, are available online at <https://datcp.wi.gov/Pages/Publications/WeightsAndMeasuresBureauFactSheets.aspx>.

### **Animal Feed**

DATCP licenses commercial feed manufacturing and distribution in Wisconsin. The sale of misbranded animal feed is prohibited by Wis. Stat. 94.72(2), (3), and (8)(c). An animal feed is misbranded if: it has false or misleading labeling; is sold or distributed under the name of another feed; the label does not list ingredients pursuant to the official names defined by the Association of American Feed Control Officials (AAFCO). All parts of a hemp plant ARE NOT approved as an animal feed ingredient. Animal feed products that contain CBD as a feed ingredient could be labeled adulterated or misbranded subject to regulatory actions by state agencies. Please send your questions to the DATCP Animal Feed program at [datcpfeed@wi.gov](mailto:datcpfeed@wi.gov) or call 608-224-4539.

### **Pesticide Concerns**

Although the U.S. Environmental Protection Agency reviews the research and approves pesticides for distribution to the public, DATCP regulates pesticide manufacturing, use and distribution of EPA-approved pesticide products in Wisconsin.

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires all pesticides sold or distributed in the United States (including imported pesticides) to be registered by EPA. Wis. Stat. § 94.68 (1) requires all firms that “manufacture, formulate, package, label, or otherwise produce pesticides for sale or distribution in this state, or sell or offer to sell pesticides to purchasers in this state” to register their products and obtain a Pesticide Manufacturer and Labeler license. The DATCP Pesticide programs can be reached at [DATCPpesticideinfo@wi.gov](mailto:DATCPpesticideinfo@wi.gov) or 608-224-4536.

### **FIFRA Section 25(b) pesticide products for possible use on hemp**

DATCP has compiled a list of FIFRA Section 25(b) products that potentially may be used on hemp: <https://datcp.wi.gov/Documents/IHPesticides.pdf>

### **Seed Labelers License**

DATCP licenses seed labelers. The labeling requirement helps assure that consumers receive good quality seed that germinates and does not contain weed seeds.

A seed labeler is any business or person whose name appears on a seed label, or who opens containers of agricultural, lawn or vegetable seed to sell all or part of it. Labels must include information about the percentages of different kinds of seeds in the package, germination, and treatment, inoculation or coating. Complete labeling requirements are listed in Wis. Admin. Code ch. ATCP 20.

You do not need a seed label license if you sell:

- Seed grown and sold on your own farm
- Seed in unopened bags or containers labeled by a licensed seed labeler
- Clones

Please visit the Wisconsin Seed Program at

[https://datcp.wi.gov/Pages/Programs\\_Services/SeedLabel.aspx](https://datcp.wi.gov/Pages/Programs_Services/SeedLabel.aspx) or call 608-224-4596 for more information

### **Phytosanitary Certificate(s) for the exportation of hemp**

If you plan on shipping hemp plant material to another US state or to another county, please contact the Wisconsin DATCP Phytosanitary Certificate program at their website

[https://datcp.wi.gov/Pages/Programs\\_Services/ShippingPlantMaterial.aspx](https://datcp.wi.gov/Pages/Programs_Services/ShippingPlantMaterial.aspx) or by calling 608-224-4596. Export requirements vary by product and destination.

### **Importing hemp into the US**

USDA's Animal and Plant Health Inspection Service (APHIS) regulates the importation of all plants and seeds for planting to ensure safe agricultural trade. For questions or requests for information regarding importing hemp plants or seeds, please contact USDA APHIS Plant Protection and Quarantine (PPQ)'s Permit Services by phone at 877-770-5990 (Toll-Free) or by email: [plantproducts.permits@usda.gov](mailto:plantproducts.permits@usda.gov).

### **Sales and Use Tax Permit**

If you or your business needs a Wisconsin Sales and Use Tax Permit, visit the website the website for the Wisconsin Department of Revenue's Sales and Use program(s)

<https://www.revenue.wi.gov/Pages/FAQS/pcs-seller.aspx#s1a>. Contact the WI Sales and Use Tax Program(s) at [DORBusinessTax@wisconsin.gov](mailto:DORBusinessTax@wisconsin.gov) or 608-266-2776.

### **Alcohol, Tobacco, or Vape related permit(s)**

If you or your business needs a Wisconsin Alcohol, Tobacco, or Vape related permit(s), visit website for the Wisconsin Department of Revenue's Cigarette, Tobacco, and Vapor Products programs <https://www.revenue.wi.gov/Pages/Businesses/Tobacco.aspx>; or that program's sub-site with additional contact information <https://www.revenue.wi.gov/Pages/FAQS/ise-permitpredeterm.aspx>. Questions about Wisconsin Alcohol, Tobacco, or Vape related permit(s) can be sent to [DORAlcoholTobaccoEnforcement@wisconsin.gov](mailto:DORAlcoholTobaccoEnforcement@wisconsin.gov) or 608-266-6701.

### **Consumer Protection Concerns – Wisconsin**

DATCP is the state of Wisconsin's primary consumer protection agency, and DATCP's Bureau of Consumer Protection has authority to regulate unfair business practices.

Please report unfair business practices to the Wisconsin Consumer Protection Hotline at 800-422-7128 (Toll Free) or via email: [DATCPHotline@wisconsin.gov](mailto:DATCPHotline@wisconsin.gov). Visit the website for DATCP Bureau of Consumer Protection at [https://datcp.wi.gov/Pages/Programs\\_Services/ConsumerProtection.aspx](https://datcp.wi.gov/Pages/Programs_Services/ConsumerProtection.aspx) to file a consumer complaint online.

### **Consumer Protection Concerns – US**

The US Federal Trade Commission (FTC) is the federal US consumer protection authority. The FTC accepts consumer complaints online at <https://www.ftccomplaintassistant.gov/#crnt&panel1-1> or by phone at 877- 382-4357.

Please note that the FTC has sent warning letters to companies that advertised their CBD-infused products as treatments for various human diseases. Please read the FTC's press release about these warning letters. This press release is available at the FTC's website <https://www.ftc.gov/news-events/press-releases/2019/09/ftc-sends-warning-letters-companies-advertising-their-cbd-infused>.

## **How does growing hemp affect my 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. Farmers should now be able to get federal crop insurance for a hemp crop as long as you hold a current hemp grower license and registration from DATCP. 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.

## **Does DATCP have any grants for growing hemp?**

No, but our Division of Agricultural Development may provide some business development assistance. 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 pilot program.

## **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 constantly developing. You should research available markets before you plant.

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## **Who will buy my hemp if I grow it?**

The U.S. hemp market is limited and constantly in flux for many reasons. As in other states, Wisconsin will have to develop processing facilities. Growers are responsible for finding markets. To learn more about marketing opportunities, we encourage you to contact a hemp trade group such as the Hemp Industries Association or the National Hemp Association.

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

If you are unwilling or unable to sell your hemp at the end of the growing season, you have several options. You can request permission from DATCP to destroy your crop and burn it, plow it under, or compost it. If it has tested at 0.3% THC or lower, you may bale it and store it on your farm. Your year-end report to DATCP must include the final end-use of your hemp crop or crops.

## **Can I export hemp products to other countries?**

Yes, certain hemp products may be exported to other countries, including processed hemp, grain, seed, and fiber. Export requirements vary by product and destination. Please contact the DATCP Phytosanitary Certificate Program for more information. Visit their website their website [https://datcp.wi.gov/Pages/Programs\\_Services/ShippingPlantMaterial.aspx](https://datcp.wi.gov/Pages/Programs_Services/ShippingPlantMaterial.aspx) or call 608-224-4596

## **Can I import hemp seeds and hemp plants into the US?**

Yes, if the licensed hemp grower follows all applicable regulations, hemp seed and plants may be imported into the US. Please note that there is a risk that a shipment of hemp seed or hemp plants could be seized because it could be difficult to differentiate hemp from marijuana in these circumstances. USDA's Animal and Plant Health Inspection Service (APHIS) regulates the importation of all plants and seeds for planting to ensure safe agricultural trade. For questions or requests for information regarding importing hemp plants or seeds, please contact USDA APHIS Plant Protection and Quarantine (PPQ)'s Permit Services by phone at 877-770-5990 (Toll-Free) or by email: [plantproducts.permits@usda.gov](mailto:plantproducts.permits@usda.gov).

## **Can CBD be produced from hemp?**

Yes. Cannabinoids, such as cannabidiol (CBD) and THC, are a group of chemicals concentrated in the female flower of the cannabis plant. CBD is chemically similar to THC. However, CBD does not have the psychoactive effects of THC. It is the licensed processor's responsibility to ensure that any CBD extraction or the production of CBD-containing substances complies with all laws and regulations, including any distribution to be conducted as part of marketing research.

## **Do I need a license to sell products made from hemp, including CBD oil?**

No license currently is needed from the Wisconsin Hemp Pilot Research Program to sell products made from hemp. However, licenses from other programs or departments may be required. For example, all retailers will need a sellers permit from the Wisconsin Department of Revenue.

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## **Can I purchase CBD from a wholesaler who is not in Wisconsin and then re-brand the CBD and sell it with my company's logo in Wisconsin?**

If you are repackaging or relabeling hemp for sale, you must have a hemp processor's license because re-packaging and re-labeling are aspects of processing hemp. However, the rebranded product cannot include any Wisconsin Hemp Pilot Program license number or reference unless the hemp was actually grown or processed in the state.

## **Can I sell food products infused with CBD oil?**

The U.S. Food and Drug Administration (FDA) has stated that it is not legal to sell food products containing CBD oil interstate. DATCP's Division of Food and Recreational Safety generally follows FDA's guidelines related to safe food ingredients or additives. Please contact our Division of Food Safety for more information at 608-224-4923 or [datcpdfslicensing@wisconsin.gov](mailto:datcpdfslicensing@wisconsin.gov).

## **Can I bottle water that contains CBD?**

There are numerous regulations that relate to bottling water. Please contact our Division of Food Safety for more information at 608-224-4923 or [datcpdfslicensing@wisconsin.gov](mailto:datcpdfslicensing@wisconsin.gov).

## **Can I feed hemp to my livestock?**

Hemp is not currently an approved ingredient for commercial animal feed, so you cannot sell it as animal feed. Growers are advised that any research project that involves feeding hemp products to their own animals may result in regulatory restrictions in the sale of products (meat, milk, eggs, etc.) from these animals. Animal feed products that contain CBD as a feed ingredient could be labeled adulterated or misbranded subject to regulatory actions by state agencies. Please send your questions to the DATCP Animal Feed program at [datcpfeed@wi.gov](mailto:datcpfeed@wi.gov) or call 608-224-4539.

## **Can I make pet food with hemp?**

No. Wisconsin's commercial feed program and U.S. Food and Drug Administration regulations are similar for pet food and livestock feed. Hemp is not an approved ingredient for commercial pet food. Selling pet food with hemp ingredients in Wisconsin would result in the products being withdrawn from distribution. However, you may include hemp in pet food that you make for your own pets' consumption. You should consult your veterinarian before doing so.

## **Can I sell pet treats that contain CBD?**

No. Hemp and its extracts are not approved commercial feed ingredients. Animal feed products that contain CBD as a feed ingredient could be labeled adulterated or misbranded subject to regulatory actions by state agencies. Please send your questions to the DATCP Animal Feed program at [datcpfeed@wi.gov](mailto:datcpfeed@wi.gov) or call 608-224-4539.

## **Can I make treats for my own pets that contain CBD?**

Yes. As long as you are not selling your pet treats, you can make and feed your own pets treats that contain CBD. You should consult your veterinarian before giving your own pet a pet treat that you made which contains CBD.

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