



Hemp Pilot Research Program

The table below identifies program rules updates for the Wisconsin Hemp Pilot Research Program with the implementation of a new emergency rule.

Previous Emergency Rule Expired June 27, 2020	New Emergency Rule (EmR2016) Effective June 27, 2020
No definition for decarboxylated.	Adds the definition for “decarboxylated” to align with state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill and USDA Interim Final Rule).
Did not explain methodology for determining THC content.	Explains the methodology for regulatory testing, which remains unchanged and is compliant with state (2019 Wisconsin Act 68) and federal law (2014 and 2018 Farm Bills). These revisions clarify how THC content is determined.
Definition of hemp was not consistent with current state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill).	Revises the definition of “hemp” to align with state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill).
Variety approval process was not consistent with current state law (2019 Wisconsin Act 68). No definition for variety.	Revises hemp seed varieties to require a grower to: notify the department in writing of the variety the grower intends to grow; and establishes a certification and approval process to clarify new requirements on what type of hemp plants may be grown and when department written approval is required prior to growing. Adds the definition for “variety.” Aligns the approval process with the certified seed process for consistency with state law (2019 Wisconsin Act 68).
Lacked detail regarding the department’s ability to suspend or revoke a license.	Clarifies that the department may suspend or revoke a grower or processor license if the licensee possesses harvested hemp that has not been sampled or without a required fit for commerce certificate. This clarification is consistent with state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill).
Lacked detail regarding the department’s ability to destroy hemp grown without a license.	For persons operating without a license, clarifies that the department may destroy any crop grown or processed without a license. Aligns with state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill).



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Was silent on negligent and culpable mental state violations and not consistent with current state law (2019 Wisconsin Act 68).	Revises to update enforcement penalties reflecting negligent and culpable mental state violations consistent with state (2019 Wisconsin Act 68) and federal law (2018 Farm Bill).
Annual registration dates did not reflect typical growing season. Activities a registered licensee may perform needed updating to align with current practices.	Clarifies when a licensed grower or processor is required to annually register with the department and what activities the licensee may perform once the licensee is registered.
The process of certifying hemp seed was not clear. The process for department review of the varieties of hemp seed prior to growing was not clear.	Clarifies that the process of the certification of hemp seed is the role of the Wisconsin Crop Improvement Association and allows the department to review other varieties of hemp seed prior to planting.
Record keeping and reporting requirements were inconsistent with practice.	Updates required record keeping and reporting requirements for consistency with past reporting cycles.
Department inspection authority was tied to terminology revised elsewhere in the rule.	Clarifies that the department may conduct inspections with any premises associated with hemp activities, as is consistent with department statutory authority in all regulated business activities.
Timing of regulatory sampling was unclear.	Clarifies that a lot must be sampled prior to harvest, but that a lot does not need to be tested prior to harvest.
The timeframe for destruction after a failed regulatory test was not clear.	Clarifies that after a failed initial regulatory test, the entire lot must be destroyed within 10 days after service of the department's destruction order unless the grower requests a re-sample and re-test prior to the expiration of the 10 days.
Re-testing was unclear.	Clarifies that a grower cannot request re-test of the original sample, but that a grower can request a new sample be collected for testing by the department.
Transporting hemp from a growing location was unclear	Clarifies that a fit for commerce certificate must be obtained by a grower prior to the hemp being transported from the growing location. This allows for movement of harvested hemp within, but not from, a growing location.



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Hemp without a fit for commerce certificate was unclear.	Clarifies that hemp found without a fit for commerce certificate is subject to destruction.
Unpaid invoices effect on program participation was unclear.	Clarifies that a grower with unpaid invoices may not register and may be subject to license suspension.
Used the definitions of greenhouse and field. This terminology was inconsistent with federal law (2018 Farm Bill and the USDA Interim Final Rule).	Revises the use of “field” and “facility” to “lot” and added the definition of “growing location” in order to more accurately reflect the layers of physical locations associated with the production of hemp.
Timing of regulatory sampling in relation to harvesting was unclear and inconsistent with federal law (2018 Farm Bill and the USDA interim final rule).	Adds a definition of “harvest” to clarify when sampling and testing requirements are triggered and to address state and federal law requirements, as well as current practice, on what plants must be sampled and tested.
Rule provided for licenses that did not expire and was inconsistent with federal law (2018 Farm Bill).	Updates references to the expiration period of the licenses to address that the department’s authority to operate the pilot program will end on October 31, 2020.