

Wisconsin Hemp Pilot Research Program



Sampling, Testing, and Seed Varieties

Wisconsin's hemp pilot research program (pilot program) is permitted under federal ([2014](#) and [2018 Farm Bills](#)) and state ([Wis. Stat. § 94.55](#)) law. As mandated by federal and state law, the pilot program will expire on October 31, 2020. Below are answers to frequently asked questions about the pilot program. This information is a guide. If you have questions, contact the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) pilot program by phone (844) 449-4367 (toll-free) or email datcpindustrialhemp@wi.gov. Information is also available at <https://hemp.wi.gov>.

Sampling

1. How do I notify DATCP that my crop is ready for the regulatory sample?

You must notify DATCP in writing **30 days prior to the date that you anticipate harvesting, for each hemp lot**. This written notification is called the 30-day harvest notification. You can submit this notification using any of the following methods:

- Online at [MyDATCP \(instructions for submitting documents using MyDATCP\)](#).
- Print and submit the [30-day harvest notification form \(581\)](#) and return by mail or fax. You must also submit a map of the hemp lot.
- Request a 30-day harvest notification form be mailed to you. To request this form, call toll-free (844) 449-4367, email datcpindustrialhemp@wisconsin.gov, or write to DATCP-ARM-Hemp
P.O. Box 8911
Madison WI 53708-8911

DATCP no longer accepts email or voicemail notifications.

2. How are regulatory samples collected?

DATCP will sample (cut) the top two inches of the hemp flowers randomly throughout one hemp lot (a contiguous area in a field, greenhouse, facility, or growing structure containing the same variety or strain of hemp throughout the area, see [Wis. Admin Code § ATCP 22.02\(14\)](#)) to get a representative sample of the lot. DATCP's standard operating procedure is available at

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

If you have fewer than 15 female plants available in one lot, DATCP will not be able to get enough plant material for a sample from that lot. As a result, the hemp at that growing location will be ordered to be destroyed.

3. Can I mix my varieties in one lot, field, or growing location?

No. DATCP is required to sample each lot (each variety grown in each contiguous growing location). If you are mixing your varieties in a growing location, DATCP staff may be unable to collect a representative sample of the field and the hemp within the entire growing location may need to be destroyed. Separate each hemp lot so that all the plants in one lot are of the same variety. Clearly mark the edges of each lot and clearly label the variety of hemp in that lot.

4. Can DATCP take a sample from harvested hemp?

No. The regulatory hemp sample collected by DATCP must come from a growing hemp lot. Post-harvest or processed hemp cannot be sampled for regulatory purposes. Lots that cannot be sampled as required, because they have been harvested or processed prior to the regulatory sample being collected, will be ordered to be destroyed.

Testing

5. How do you know my crop's total delta-9 THC content?

The samples DATCP collects from your lot are sent to DATCP's lab for analysis. The analysis tests for the total delta-9 tetrahydrocannabinol (total delta-9 THC) of each lot sampled. Due to the number of samples needing testing, you might not receive your regulatory test results prior to harvest.

6. Can I have my hemp privately tested?

Yes, but private tests may not substitute for DATCP's regulatory test. It is strongly recommended that growers monitor the total delta-9 THC content of their lot through private testing. Due to the number of samples needing testing, DATCP cannot guarantee that growers will receive their regulatory results prior to harvesting their lot. Private testing helps growers in making harvest decisions.

7. What is DATCP's procedure for regulatory hemp testing?

DATCP's regulatory hemp sampling and testing has remained the same in 2018, 2019, and 2020. The hemp regulatory sample is analyzed for total delta-9 THC.

The [2018 Farm Bill](#) and [2019 Wisconsin Act 68](#) require a hemp testing method that includes delta-9 tetrahydrocannabinol acid (delta-9 THCa). The 2018 Farm Bill states that the total delta-9 THC is to be tested using post-decarboxylation or other similarly reliable methods. Wis. Stat. § 94.55(1) requires that hemp contain no more than 0.3% delta-9 THC and must be tested using post-decarboxylation or other similarly reliable methods.

To meet this requirement of using post-decarboxylation, DATCP's regulatory lab uses high performance liquid chromatography (HPLC) with a calculation (total delta-9 THC = delta-9 THC + 0.877*delta-9 THCa) to achieve equivalent results to heating. Delta-9 THCa is included in the assessment because delta-9 THCa is a precursor to delta-9 THC, and with heat converts to delta-9 THC.

8. What if my hemp tests above 0.3% total delta-9 THC?

If your lot tests between 0.3% and 1.0% total delta-9 THC, you may request a re-sample in writing. You can either email

datcpindustrialhemp@wiscosnin.gov or mail a letter requesting this to

DATCP-ARM-Hemp

Attn: Re-Sample

P.O. Box 8911

Madison, WI 53708-8911

You must make your request within 10 days of service of your initial sample results. The date of service is the return receipt date on your mailed sample results.

If you request a re-sample, DATCP will collect another sample of the same lot and send the new sample to DATCP's lab for analysis. You will have to pay another \$250 for the re-sample and testing.

If you decline re-sampling and testing, you must destroy that same hemp lot within 10 days of service of the destruction order.

If your re-sample results are above 0.3% total delta-9 THC, a lot destruction order will be sent to you. You must destroy your hemp lot within 10 days of service of the destruction order. You cannot request another re-sample if your lot of hemp has already been re-sampled.

If your lot tests above 1.0% total delta-9 THC, it is outside the safe limits of the law ([Wis. Stat. § 961.32](#)). This means that DATCP staff will have to observe the destruction of this lot, or DATCP staff will destroy the hemp lot and you will receive a bill for destruction.

9. Is there a list of approved labs that can provide THC and cannabinoid testing?

DATCP does not currently certify or approve labs that can provide cannabis testing. However there are many private laboratories in the state that provide this service for growers. DATCP recommends using laboratories that are ISO 17025 accredited.

10. Does DATCP require post-harvest testing?

No, DATCP currently does not require post-harvest testing or product testing. Processors and manufacturers may require testing. Regardless of DATCP hemp regulatory testing, all hemp and hemp products must meet the legal definition of hemp with a total delta-9 THC content of 0.3% or less.

11. Can I send my hemp sample to a private lab to avoid the cost of DATCP's regulatory testing?

No. The regulatory sample cannot be taken by anyone other than DATCP and the regulatory testing cannot be done by a private lab. While you are encouraged to use a private lab to monitor your crop's total delta-9 THC concentration throughout the growing season, DATCP's regulatory hemp sampling and testing is the required regulatory test at this time. Your hemp crop must be sampled by DATCP before harvest and tested by DATCP's lab before a fit for commerce certificate can be issued. You can use private labs for any additional pre- or post-harvest testing needs.

Hemp Seed, Clones, and Varieties

12. What is certified seed?

Certified seed is seed whose producer has submitted their seed to inspection/testing to prove the identity of its variety, genetic purity, and seed quality. In Wisconsin, the Wisconsin Crop Improvement Association (WCIA) is designated as the official seed certifying agency. For more information about the WCIA, visit <https://wcia.wisc.edu/seedcert.html>. DATCP's Hemp Pilot Research Program does not certify seed.

13. How do I get my variety approved?

Only licensed hemp growers with a current annual registration can grow hemp. State law ([Wis. Admin Code § ATCP 22.07](#)) requires you to notify DATCP in writing of the variety of hemp you intend to plant. Before planting, you must request review and receive approval from DATCP for each variety not certified by WCIA.

Planting an unapproved variety could result in the revocation of your license.

DATCP does not certify hemp varieties, but verifies that the variety is documented to be capable of producing a compliant hemp crop. This is not a guarantee the variety will produce a compliant crop. Compliance is determined by the regulatory test. Additional information about this process is available at https://datcp.wi.gov/Pages/Programs_Services/IHSeed.aspx.

14. Where can I buy hemp seed or clones?

Seeds and clones are available from multiple domestic or international sources. You can order seed or clones after you submit your annual registration form and fee, and after you receive your license.

Seeds, clones, or seedlings with a fit for commerce certificate, or its equivalent, provides proof that they came from legal hemp. Seed certified by the WCIA or the official seed certifying agency of another state can also provide proof that seed came from legal hemp.

15. Can I sell seed or clones to growers in other states?

Yes, if the hemp was lawfully grown. Federal law permits interstate (state-to-state) commerce (buying and selling) of hemp seed, grain, plant material, and hemp products. Check with other state, tribal, or USDA hemp regulatory programs to find out what their requirements are.

Under state law ([Wis. Admin. Code § ATCP 22.13](#)), when transporting hemp grown under Wisconsin's hemp pilot program, you must include a copy of the fit for commerce certificate and the grower or processor license that designates the owner of the hemp.

16. Can I save seed to plant the following year?

A grower may save seed harvested from a pilot project and plant the seed unless it is prohibited by the variety owner. More information is available at https://datcp.wi.gov/Pages/Programs_Services/IHSeed.aspx.

17. Do I need a seed license to sell hemp seed in Wisconsin?

Maybe. DATCP's Seed Labeler Program licenses seed labelers. The seed labeler program is a separate program from the hemp pilot program.

Visit

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

18. What do I need to do to sell hemp clones in Wisconsin?

First, obtain a hemp grower license and current annual registration. You will need a regulatory sample and a fit for commerce certificate for the Wisconsin grown parent lot of hemp one growing season before the resulting clones are brought to

market. Each hemp lot needs to have at least 15 female flowering plants at the time of the regulatory sample. For an out-of-state parent lot, you need the equivalent of a fit for commerce certificate from the state, tribal, or USDA administered hemp regulatory program of origin for that parent lot.

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>
 - Interim final rule: Establishment of a Domestic Hemp Production Program
<https://www.federalregister.gov/documents/2019/10/31/2019-23749/establishment-of-a-domestic-hemp-production-program>
 - List of approved tribal plans:
<https://www.ams.usda.gov/rules-regulations/hemp/state-and-tribal-plan-review>
- U.S. Department of Justice Drug Enforcement Administration (DEA):
 - DEA's interim final rule: Implementation of the Agriculture Improvement Act of 2018
<https://www.federalregister.gov/documents/2020/08/21/2020-17356/implementation-of-the-agriculture-improvement-act-of-2018>



**Wisconsin Department of Agriculture,
Trade and Consumer Protection**
Division of Agricultural Resource
Management | Bureau of Plant Industry
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