

# Meeting Notes

(Approved 18 February 2019, no changes)

Town of Greenville

## Land Stewardship/AEA Committee

**Monday, 14 January 2019 (5:00 pm)**

Greenville Town Hall

Present: Larry Bentle, Michael Brown, Sarah Grotjan, John Julius, Mia Ljung, Steve Nagy & Pete Schroeder.

**Next Meeting: 18 February 2019, Monday (5:00 pm at the Town Hall)**

***“To do,” items are indicated in red.***

1. Call to order. 5:03 pm
2. Approval of 12 November 2018 meeting minutes. Minutes were approved without change (Motion by Pete, Steve 2<sup>nd</sup>).
3. Greenville Bike and Trail Committee (update).
  - a. John and Michael reported that the Bike & Trail Committee is actively meeting. They plan to issue an updated trail plan by March 2019 for East Central Planning to review. One goal is to standardize the path design/construction with respect to different types of roads (e.g. State highways, County and Town roads) and most effectively match trail connections with adjacent community trails. Some suggestions from our committee were provided as input for their planning.  
**Attachment I** is their working trail plan to use as a starting point.
    - i. It was recommended that bike/pedestrian trails should not be shared with motorized vehicles such as ATVs and Snowmobiles.
    - ii. It was requested that trails be planned in a manner to promote Ag tourism to our Greenbelt and AEA area that encourages Ag tourism related businesses in the Greenbelt via easy access to the area recreational public.
    - iii. Would the trails be able to be accessed by horse riders?
4. Committee account status. A \$200 donation was received to our account from the Rod & Gun Club on 12 September 2018. There have been no expenditures since our last meeting. Our Town treasurer (Lisa) issued a statement to Larry on 22 January 2019, our current account balance is \$1068.
5. Town incorporation, status (Michael). By 1<sup>st</sup> part of March the Town will submit its Village application to the Wisconsin Department of

Administration. Review will take about 6 months. If approved, a Town will put it on the ballot for a referendum vote by our residents.

6. Comprehensive plan status (Michael). The Town Board will hold a meeting at 5:00 pm on 21 January followed by working sessions at 6:00 pm with public invited for input.
7. Committee officers and organization – as per our Bylaws. Some discussion transpired. No changes so far in committee officer status. John will help lead some committee work and projects. Michael said the Town has new software that could be used for generating committee agendas and meeting minutes.
8. AEA expansion, landowner inquiries (Jeff). No further input at this time.
9. Land Trusts (Larry). Currently we have no organizations in NE Wisconsin that handle agriculture land trusts. The question is: Would the Town of Greenville be willing to partially fund an institution that has the knowledge to create and administer land trusts (i.e. NE Wisconsin Land Trust or others) with the end intent to specifically create and administer Ag land trusts for Greenville? Larry posed this question first in a conversation with Jack Anderson and then to the Planning Commission (12/17/18). The response was positive and he should proceed by approaching select land trust organizations to further development this idea.
10. Community Ag education -HASD.
  - a. Student facility tours (Sarah). On 11 January 2019 tours were conducted for interested Hortonville HS students at the Meat Block in Greenville and Whitman's Dairy Farm. They were instructed on start up strategies, business model used, dairy robotics and strategies to expand each of the businesses. At the Meat Block they were told that personality and work ethic were the two main qualities sought for in a new hire. Sarah took photos and a student is being sought to write and article for the newspaper and our Town newsletter.
  - b. Other school related activities. None reported.
11. Related area news & topics.
  - a. Steve requested to be on the agenda for our next mtg to discuss WI Ag tourism and present ideas as to what could be done to build this idea for our area. What businesses could be started involving our area farms?
  - b. Industrial Hemp can now be grown in Wisconsin in accordance with the 2017 Senate Bill 119 (dtd November 30, 2017). Industrial hemp is defined as the plant with the name Cannabis sativa L. with a THC concentration of 0.3% or less in all parts of the plant when it has been dried. A one-time license to grow Industrial Hemp is required as well

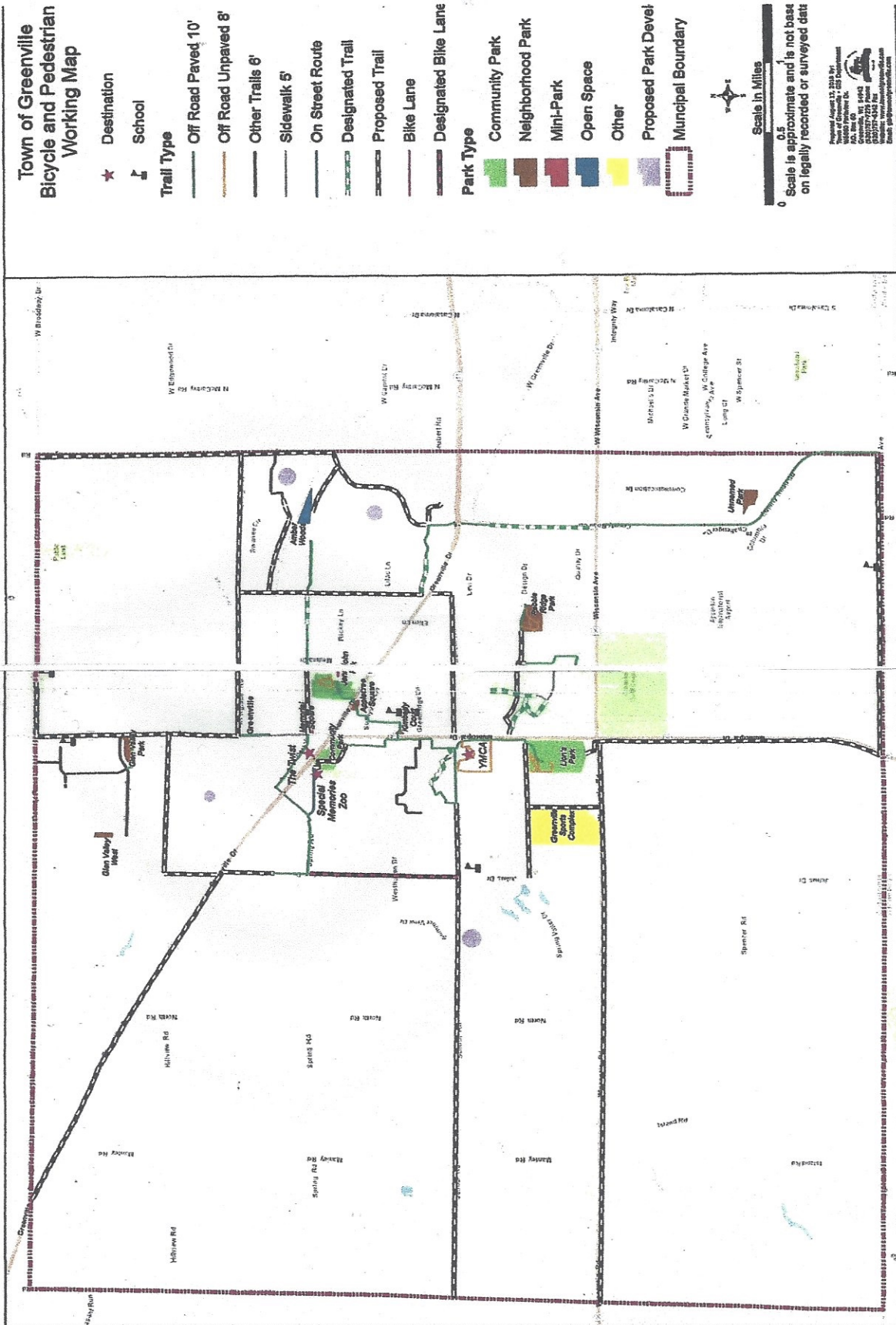
as registering for each successive year thereafter. The registration deadline for a license and to register for the 2019-year is 1 March 2019. The license and registration can be obtained from DATCP via email at (DATCPindustrialhemp@wi.gov). Program staff at this site can provide information to questions. **Attachment II & III** are Frequently Asked Questions (FAQs) on Wisconsin's Industrial Hemp Pilot Research Program and 2017 Senate Bill 119, respectively.

12. Next meeting. **Monday, 18 February 2019**, 5:00 pm at the Town Hall.

13. Adjournment. 6:23 pm; motion by Pete, Steve 2<sup>nd</sup>.

Parking lot items:

- a) Web site.
- b) PDR & TDR
- c) Historic Preservation Commission
- d) AEA Signage.



## Frequently Asked Questions:

### Wisconsin's Industrial Hemp Pilot Research Program

Updated October 23, 2018

As you probably know, we have received many questions about growing and processing industrial hemp in Wisconsin. Bear in mind that we are authorized to regulate hemp only up to the point where it's been found to comply with the 0.3 percent THC level and harvested. After that, it is an ingredient or a fiber, and comes under regulations, if any, for the products containing it.

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## General

### What is industrial hemp?

Industrial hemp is 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. This is how both the federal farm bill that authorized states to create pilot research program and 2017 Wisconsin Act 100 define industrial hemp.

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

You will need a one-time license and annual registration to process industrial hemp in Wisconsin. Processing industrial hemp includes transporting, warehousing and converting the industrial hemp to a marketable form. A processor license is also needed if you will be packaging and labeling raw industrial hemp for retail sale. If you will be processing only industrial 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 as a processor?

Depending on what you are doing with the industrial hemp you process, you may need additional licenses from the department or other departments. For example, any industrial hemp processors 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 <mailto:datcpdfslicensing@wisconsin.gov> for more information about those licensing requirements.

### How does growing industrial hemp affect my FSA and/or federal crop insurance contracts or program participation?

Federal agencies consider industrial hemp to be a controlled substance the same as marijuana, so farmers cannot get federal crop insurance for an industrial hemp crop and the FSA does not record or report hemp acreage.

If you are thinking of planting industrial hemp, you should check with your local FSA service center to see if your access to federal crop support programs might be affected by participation in the industrial hemp pilot research program.

## **Licensing, registration and fees**

### **How do I apply to grow hemp?**

To **grow** industrial hemp you must:

- Apply for a one-time license using the forms provided by the Department of Agriculture, Trade and Consumer Protection
- Pay a one-time license application fee (\$150 for 0-30 acres, \$5/acre for 31-199 acres, or \$1000 for 200 acres or more)
- Undergo a background check
- Provide field or greenhouse locations and GPS coordinates

You also must register with the department every year that you plan to grow hemp, including the first year that you receive your license. When you register each year, you must also submit:

- An annual registration fee of \$350
- GPS coordinates and maps of your fields
- A research plan
- A signed research agreement

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- Undergo a background check

You also must register with the department every year that you plan to process hemp, including the first year that you receive your license. When you register each year, you must also submit:

- An annual registration fee of \$100
- GPS coordinates and maps of your processing location
- A research plan
- A signed research agreement

### **When can I apply for my license and registration?**

Licensing and registration will be open from November 1, 2018 through December 31, 2018. If you plan to grow or process industrial hemp during 2019, be sure to get your license and registration during that time frame.

### **How did you come up with the fees?**

The license fees are specified in s. 94.55, Wis. Stats. The law also allows DATCP to set annual registration fees that do not exceed the actual costs of administering the hemp program. We established the fees after calculating the department's costs for program administration and reviewing other states' fees. As most states are doing, DATCP will invoice growers the actual costs of sampling and testing.

### **How long does my license last?**

The pilot program license is permanent. However, you must re-register each year you want to grow or process industrial hemp.

**Am I required to do anything else if I participate in the industrial hemp pilot program?**

You must allow us access to your hemp fields to inspect and sample, submit a planting report, and submit a final report. You must maintain a variety of records. You should take reasonable measures to prevent theft or diversion of your industrial hemp plants and seed, and cooperate with law enforcement if necessary. Licensees who fail to pay their invoiced fees or submit their required reports for the previous growing season may have their license suspended, and will not have their registrations approved to grow in the following year.

**Can I see a list of industrial hemp growers or industrial hemp processors licensed in the state?**

Pilot participants' personally identifiable information and field location data are confidential under state law. DATCP will not provide this information, although growers or processors may release it themselves.

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## Research plans

**Why is a research agreement required?**

The 2014 farm bill allowed universities and state departments of agriculture to conduct industrial hemp research and pilot programs. The research agreements extend the department's research program to individual farmers, allowing them to do applied research throughout the state of Wisconsin under a variety of growing conditions.

**What do you mean by a research plan?**

After a 70-year absence from Wisconsin's agricultural landscape, industrial hemp is considered a new crop here. 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 the department, or a more detailed plan may be attached.

**What do I do with the research plan?**

You will use it as your guide to gather and record your findings. We will supply forms for reporting agronomic data and research results, so you will need to gather this data throughout the growing season and report your research findings every year. We will prepare an annual summary report of all research conducted as part of the program, so everyone can benefit from the information.

We will not register you for succeeding seasons if you have not filed your reports.

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## THC and testing

**How do you know my crop's THC content?**

Participants must notify the department 30 days before they want to harvest. A department inspector will sample each field and variety grown and deliver the samples to our laboratory for analysis. The method used is called high-performance liquid chromatography, or HPLC. We will invoice you for the cost of the sampling and testing. Growers may not harvest their industrial hemp crop until it has been tested by the department. Once plants have been sampled, the plants may be harvested, but must remain in the field or in storage at your registered site until a fit-for-commerce certificate is issued. All plants must be either harvested or destroyed within 10 days after receiving sample results.

**What if my plants test above 0.3% THC?**

You may request a retest within 10 days of receiving your sample results. We would collect another sample and send it to the laboratory again for HPLC analysis. You would pay the cost for both the resampling and retest. If you decline resampling and retesting, or if the hemp samples test high again, you are required to destroy your crop within 10 days. Wisconsin state law provides protection from criminal penalties to growers whose plants test no more than 1 percent -- up to 0.7 percentage points above the 0.3 percent THC limit. Growers who plant certified seed are protected from criminal penalties regardless of THC level.



**Does the department have a list of approved laboratories that can provide THC and cannabinoid testing?**

The department does not currently certify or approve laboratories that can provide cannabis testing.

**Can I send my hemp sample to a private laboratory to avoid the cost of the DATCP testing?**

Growers must have their hemp crop sampled by Department staff and tested by the department's regulatory lab prior to harvest. Growers and processors can use private laboratories for additional pre- or post-harvest testing needs.

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## **Growing locations**

**Can I grow industrial hemp in a greenhouse?**

Yes, you can grow in a greenhouse as long as you clearly indicate your research goals and production methods on your application.

**Can I grow industrial hemp in my residence?**

No, you may not grow industrial hemp in your residence, including your basement, garage, or any other indoor area within your residence.

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

Industrial hemp should be grown in traditional agricultural fields or greenhouses. We do not permit growing industrial hemp in residences. If you want to grow industrial hemp in a location that is not an agricultural field or greenhouse, you must seek and receive approval for that location from the department prior to planting. The department will not otherwise restrict industrial hemp production locations, but you may be subject to township or city zoning rules prohibiting industrial hemp in certain locations, including backyards in residential neighborhoods. We do not track these local rules. You are responsible for knowing and complying with them.

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

If you want to change field locations, you must amend your license, submit a license modification fee, and provide new GPS coordinates. The department has the discretion to waive the license amendment fees for field location changes that are required due to unforeseen or extenuating circumstances, such as flooding.

**Is there a minimum acreage requirement?**

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

**Do I need to build a fence or put up signs around my field?**

No. If you are concerned about trespassing or vandalism if your crop is mistaken for marijuana, you may post signs identifying it as industrial hemp, but it is not required.

Also, if your industrial hemp plot is less than 1 acre, you may want to post signage to help local law enforcement identify it as part of the pilot program.

**Do I need to notify the sheriff/local police or does DATCP do it?**

Many growers do proactively notify their local law enforcement about their hemp fields and processing locations. However, once you register your hemp fields with us, we will share your field location and contact information with local law enforcement upon their request. For this reason, it is essential that you provide accurate field location information and maps and keep the department updated 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.

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## How to grow industrial hemp

*Please note that we do not have agronomic expertise. Our role is to set up the pilot research program and regulate it. Learning how to grow hemp in Wisconsin is part of the research. However, some information is available from other states that have already started their pilot programs, from Canada where industrial hemp is grown as a commodity crop, and from organizations advocating industrial hemp as a crop. We have used that information to answer these basic common questions, but encourage you to go directly to the sources for details.*

### What are the best hemp varieties?

Different varieties are better for different purposes. Whether you grow hemp for fiber, grain production, or CBD will determine which varieties you will want to grow. You may refer to either the [Health Canada List of Approved Cultivars for the 2018 Growing Season](#) or the [OECD List of Varieties Eligible for Seed Certification](#) for top performing varieties for grain and fiber production. *If you plan to grow a high-CBD variety, please note that there are no certified seeds for these varieties and all must be pre-approved by the department prior to planting.* Regardless of variety planted, all industrial hemp fields or varieties testing above 0.3% THC in the department's pre-harvest test must be destroyed.

### When do you plant hemp?

The ideal seeding time for outdoor industrial hemp production in Wisconsin is from mid-May to mid-June. Soil temperatures should be at least 45-50 degrees Fahrenheit. Industrial hemp likes warm soil. Cold soils and pathogens may kill seedlings if you plant too early.

### What type of soil does hemp like?

Hemp can grow in many types of soil, but it particularly does well in well-drained soils.

### How many pounds of seed per acre do you plant?

The general recommendation is 20-40 pounds per acre for grain production, and 40-60 pounds per acre for fiber production, but the optimal seeding rate for your field will depend on the seed variety, seed purity and germ, local conditions and other factors. The [Canadian Hemp Trade Alliance's \(CHTA\) Hemp Production eGuide](#) has excellent seeding information.

### Can you plant hemp on hemp? How does it fit into a crop rotation?

According to the CHTA, "Hemp fits in with typical crop rotation systems and with typical equipment that would already be found in a grain production system." Please visit the [CHTA's Hemp Production eGuide](#) for much more information on hemp agronomy.

### How do you sow hemp seed? What equipment and at what depth? Can you broadcast or do you have to drill?

Most conventional drills and seeders will work for hemp. Use lower air volumes to avoid seed cracking, and plant ½-1 inch maximum into a firm seedbed. Avoid soil compaction and do not seed when heavy rain is in the forecast. Please visit the [CHTA's Hemp Production eGuide](#) for much more information on hemp planting.

### Can I grow hemp organically?

The National Organic Program (NOP) allows organic certification of hemp grain and fiber. The national organization has indicated it may not certify cannabinoid extracts produced from hemp, but each local certifier may handle this matter differently. Please visit [NOP's website](#) or speak with your local organic certifier for more information.

There are no pesticides registered for use on industrial hemp. You may use only 25(b) minimum risk pesticides, which are exempt from federal EPA registration. However, those products must be registered in Wisconsin. A list of pesticide products registered in Wisconsin can be found [here](#). Check with your local certifier to see which of these may be used on organic-certified industrial hemp.

### Do you need to fertilize industrial hemp?

Yes, hemp has similar nutrient needs to corn, and especially requires added nitrogen. General guidelines for fertilizer rates can be found on the [CHTA's Hemp Production eGuide](#).

### How do you harvest it?

Hemp varieties grown for grain and fiber are generally harvested by straight combining; however, swathing is also

used. Hemp has long fibers and can get entangled in harvesting equipment. Other hemp varieties may require different harvesting techniques, including hand harvesting. Do your research and be patient while harvesting industrial hemp. Please visit the [CHTA's Hemp Production eGuide](#) for much more information on hemp harvesting.

### **When do you harvest it?**

Generally, crop maturity is 90-120 days after planting, depending on the variety and local climatic conditions. Industrial hemp seed is harvested when about 75 percent of the seeds are ripe and starting to shatter. High winds can accelerate shattering. Bird predation can also be a major problem. The CHTA recommends harvesting at 18-20 percent moisture, and immediately starting the drying process. Dry grain to 8-10 percent moisture for storage.

### **What kind of yield can I expect?**

Yields vary widely depending on variety, local climatic conditions, cultivation method, and grower experience.

For grain, new growers have reported yields of 250-700 pounds/acre. More experienced growers report 800-1,800+ pounds/acre.

The average yield for dual purpose crops, harvested for both grain and fiber, is ¾-2 tons/acre. For hemp produced solely for fiber, the average yield is 3-5 tons per acre.

### **How deep are the roots?**

The CHTA says that hemp roots are capable of penetrating up to 24 inches into the soil to recover nutrients that may be lost to many other crops. [CHTA Hemp Production eGuide](#)

### **Do deer eat hemp?**

Yes, deer browse damage was observed in Wisconsin fields by DATCP hemp inspectors in 2018.

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## **Seed**

### **Where can I buy hemp seed?**

Seed is available from multiple domestic or international sources. You can order seed after you receive your license and submit your annual registration form and fee. You must transport and store seeds in a secure manner. We recommend purchasing certified seed as the best option for quality germination rates and best protection against high THC levels.

### **Does DATCP have a DEA registration to help growers import seed internationally?**

DATCP does have a DEA seed importer registration and can help facilitate seed imports in 2019. Additional information about how to import seeds internationally is available on the DATCP industrial hemp website at this location:

[https://datcp.wi.gov/Pages/Programs\\_Services/IHSeed.aspx](https://datcp.wi.gov/Pages/Programs_Services/IHSeed.aspx)

### **Can I sell seed to growers in other states?**

It is not a violation of our program rules to sell hemp seed, grain, plant material, or hemp products produced in Wisconsin to other U.S. states with an industrial hemp pilot program. Such activity may violate other states' laws or federal laws. It is the responsibility of the individual to understand all applicable federal laws and other states' hemp laws.

If the pilot participant wishes to sell seed to a grower in another state with an industrial hemp pilot program, the importer will initiate and arrange the seed shipment.

***However, you cannot sell or transport hemp seed that was imported from outside the country via Wisconsin's DEA importer registration permits.*** That imported seed must be planted or processed within the state.

### **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. Please see more information in the [seed section of DATCP's industrial hemp web site](#). Usually, seed cannot be saved

and sold for propagation, except under the Wisconsin Crop Improvement Association's seed certification program. Most seed distributors will not allow purchasers to save seed and sell it to other users.

### **Do I need a seed license to sell hemp seed in Wisconsin?**

Yes. The Department of Agriculture, Trade and Consumer Protection 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 [Wisconsin Administrative Code 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

Please visit the [Wisconsin Seed Program](#) for more information.

### **Can I breed a new variety of hemp for Wisconsin?**

Pilot program participants wishing to breed a new hemp variety must apply for a research authorization from the department. Breeding is typically done by breeders or plant geneticists in an academic setting, and may have additional legal requirements.

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## **Marketing**

### **Can I sell my unprocessed hemp in other states?**

The Wisconsin pilot program covers hemp cultivation, processing, and marketing only *within* the state of Wisconsin. Industrial hemp pilot programs in other states may allow their processors to import unprocessed hemp from Wisconsin, if you are a licensed grower under our program. You are responsible for understanding federal law and other states' laws, or for consulting an attorney on these matters.

### **Can I process hemp imported from growers in other states?**

Licensed processors in Wisconsin may accept unprocessed industrial hemp from licensed growers who are part of any state's industrial hemp pilot program. Unprocessed hemp must be accompanied by documentation provided by an industrial hemp pilot program that demonstrates that the hemp has tested at or below 0.3 percent THC.

### **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.

### **Do I have to be a Wisconsin resident to get a DATCP industrial hemp license?**

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

### **Can I grow hemp under contract with someone else?**

Yes, but each individual grower must still be licensed, register and sign a research agreement, and meet the research plan and reporting requirements. The person you are growing for must be a licensed processor.

### **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 we will perform

routine inspections and plant sampling in the fields. If you plant hemp on rented land, you must provide us with the landowner's name and contact information.

**What price can I expect to receive when I sell my hemp grain?**

Prices for hemp grain are fluctuating widely in the U.S. because the industry is in a very early stage and constantly developing. You should research available markets and secure a contract before you plant.

**What is the cost per acre of growing hemp?**

The Alberta Agriculture and Forestry Department reported an average total production cost at \$409 (Canadian dollars) per acre, with an average grain yield of 1,074 pounds per acre – or 38 cents per pound of hemp seed produced.

In Minnesota, hemp seed prices have varied widely, depending on variety and source. Imported seed costs more than domestic seed because of additional shipping and customs fees. You may also need to buy or rent harvesting equipment. In 2016, hemp producers in Minnesota reported costs per acre of \$970-\$2,500. In 2017, initial reports indicate production costs of \$300-\$600 per acre. This does not include costs of land.

In Wisconsin, we just don't know. That's part of what we are trying to learn. We hope to have some information when we get our growers' reports, due by mid-December.

**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 industrial 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 disposition of your industrial hemp crop.

**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 our [phytosanitary certificate program](#) for more information.

**What about cannabinoids, like CBD?**

Cannabinoids, such as cannabidiol (CBD), are a group of chemicals concentrated in the female flower of the cannabis plant. While they are chemically similar to THC, they do 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 industrial hemp, including CBD oil?**

No license currently is needed from the industrial hemp program to sell products made from industrial 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.

**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?**

Yes, if the CBD was made from hemp grown in an industrial hemp pilot program, but the rebranded product cannot include any Wisconsin Industrial 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) considers THC (tetrahydrocannabinol) and CBD (cannabidiol) to be drugs; as such they cannot be found in any traceable amount in food.

#### **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).

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## **Animal feed and pet treats**

#### **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.

#### **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.

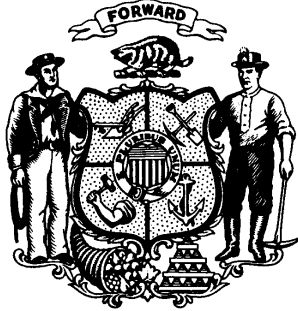
#### **Can I sell pet treats that contain CBD?**

No. Industrial hemp and its extracts are not approved commercial feed ingredients.

#### **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.

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2017 Senate Bill 119

Date of enactment: **November 30, 2017**

Date of publication\*: **December 1, 2017**

## 2017 WISCONSIN ACT 100

AN ACT *to renumber and amend* 961.14 (4) (t) and 961.55 (8); *to amend* 94.67 (2), 97.02 and 973.01 (2) (c) 2. a.; and *to create* 20.115 (7) (gc), 94.55, 94.67 (15r), 348.27 (18) (a) 1. f., 961.14 (4) (t) 2., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55 (9) of the statutes; **relating to:** growing and processing industrial hemp, providing an exemption from emergency rule procedures, granting rule-making authority, making an appropriation, and providing a criminal penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 20.115 (7) (gc) of the statutes is created to read:

20.115 (7) (gc) *Industrial hemp.* All moneys received under s. 94.55 for regulation of activities relating to industrial hemp under s. 94.55.

**SECTION 2.** 94.55 of the statutes is created to read:

**94.55 Industrial hemp. (1) DEFINITION.** In this section, "industrial hemp" means the plant *Cannabis sativa*, or any part of the plant including the seeds, having a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater. "Industrial hemp" includes a substance, material, or product only if it is designated as a controlled substance under the federal Controlled Substances Act under [21 USC 801](#) to [971](#) or the Uniform Controlled Substances Act under ch. 961 or both.

**(2) REGULATION OF INDUSTRIAL HEMP.** (a) Subject to the provisions under this subsection, a person may plant, grow, cultivate, harvest, sample, test, process, transport, transfer, take possession of, sell, import, and export

industrial hemp in this state to the greatest extent allowed under federal law.

(b) 1. The department shall promulgate rules regulating the activities described in par. (a).

2. Except as provided under subs. 3. to 6. and subs. (3) and (4), rules promulgated under this paragraph shall regulate the activities described in par. (a) only to the extent required under federal law, and in a manner that allows the people of this state to have the greatest possible opportunity to engage in those activities.

3. The department shall promulgate rules, as necessary, to ensure the quality of industrial hemp grown or processed in this state, the security of activities related to industrial hemp, and the safety of products produced from industrial hemp, including any necessary testing; to verify adherence to laws and rules governing activities related to industrial hemp; and to enforce violations of those laws and rules.

4. The department shall require the payment of an initial fee from any person who plants, grows, or cultivates industrial hemp in this state equal to the greater of \$150 or \$5 multiplied by the number of acres on which the person will plant, grow, or cultivate industrial hemp, but not to exceed \$1,000. The department may also impose an

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."



annual fee on any person whose activities related to industrial hemp are regulated by the department under this paragraph, in an amount not to exceed an amount sufficient to cover the costs to the department of regulating those activities, as determined by the department by rule.

5. The department shall ensure that any of the following information that is in the department's possession is confidential and not open to public inspection or copying under s. 19.35 (1), except that it shall be made available to a law enforcement agency or law enforcement officer:

a. Information relating to the locations of industrial hemp fields and processing locations.

b. Personally identifiable information relating to a person who is lawfully engaging in activities related to industrial hemp.

c. Information obtained about an individual as a result of any criminal history search performed in relation to authorizing the individual to engage in activities related to industrial hemp.

d. Any other information about activities related to industrial hemp that could create a security risk if disclosed.

6. The department shall promulgate rules setting forth the factors to be considered when determining whether to refer a person for prosecution under s. 961.32 (3) (c).

(c) The department shall establish and administer a certification program, or shall designate a member of the Association of Official Seed Certifying Agencies or a successor organization to administer a certification program, for industrial hemp seed in this state. A certification program under this paragraph shall include the testing and certification of delta-9-tetrahydrocannabinol concentrations in hemp plants. Participation in the certification program shall be voluntary for growers and cultivators of industrial hemp. The department shall promulgate rules for the administration of any certification program established and administered by the department under this paragraph.

(d) The department of justice shall provide information to the department that the department has identified, by rule, as necessary to administer the provisions under this subsection.

(e) The department may seek federal approval to serve as an importer of industrial hemp seed.

(3) **PILOT PROGRAM.** The department shall create a pilot program to study the growth, cultivation, and marketing of industrial hemp. The department shall promulgate rules to implement the pilot program consistent with the authority under sub. (2) (b). The department shall also do all of the following as part of the pilot program:

(a) Issue licenses that authorize the planting, growing, cultivating, harvesting, sampling, testing, processing, transporting, transferring, taking possession, selling, importing, and exporting of industrial hemp. The department shall identify the requirements for applying for a

license, approving or denying a license, and suspending or revoking a license, and shall identify the restrictions and obligations that apply to operating under a license. As part of the application process, the department shall require an applicant to provide the global positioning system coordinates of the centers of all fields on which the industrial hemp will be planted, grown, cultivated, or harvested. The department shall obtain a criminal history search from the records maintained by the department of justice for each applicant and may not issue a license if the applicant has ever been convicted of a criminal violation of the federal Controlled Substances Act under [21 USC 801 to 971](#), the Uniform Controlled Substances Act under ch. 961, or any controlled substances law of another state, as indicated in the information obtained from the criminal history search. A license issued under this paragraph does not expire unless the pilot program under this subsection expires or the license is revoked.

(b) Create a registration system that authorizes the sampling, testing, processing, transporting, transferring, taking possession, selling, importing, and exporting of industrial hemp. The department shall obtain a criminal history search from the records maintained by the department of justice for each person applying for registration and may not register an applicant who has been convicted of a criminal violation of the federal Controlled Substances Act under [21 USC 801 to 971](#), the Uniform Controlled Substances Act under ch. 961, or any controlled substances law of another state, as indicated in the information obtained from the criminal history search.

(c) Create a form to accompany any transfer of industrial hemp. The department shall identify the information to be included in the form, which shall include any test results showing the delta-9-tetrahydrocannabinol concentration of the industrial hemp being transferred, the amount of industrial hemp being transferred, and the full chain of custody of the industrial hemp being transferred for all transfers of the industrial hemp until it is processed in such a way that it no longer meets the definition under sub. (1), at which point the form shall be submitted to the department.

(4) **PENALTIES.** A person who violates any provision of this section, or an order issued or rule promulgated under this section, may be required to forfeit not less than \$200 nor more than \$5,000 or, for an offense committed within 5 years of an offense for which a penalty has been assessed under this section, may be required to forfeit not less than \$400 nor more than \$10,000.

**SECTION 3.** 94.67 (2) of the statutes is amended to read:

94.67 (2) "Agricultural commodity" means any plant or part of a plant, animal or animal product produced by a person primarily for sale, consumption, propagation, or other use by humans or animals. "Agricultural commodity" includes industrial hemp.



**SECTION 4.** 94.67 (15r) of the statutes is created to read:

94.67 (15r) “Industrial hemp” means the plant *Cannabis sativa*, or any part of the plant including the seeds, having a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater.

**SECTION 5.** 97.02 of the statutes is amended to read:

**97.02 Standards; adulterated food.** For the purposes of this chapter, a food is adulterated if it is adulterated within the meaning of [21 USC 342](#), except that the department may not consider a food to be adulterated solely because it contains industrial hemp, as defined in s. 94.67 (15r), or an industrial hemp product.

**SECTION 6.** 348.27 (18) (a) 1. f. of the statutes is created to read:

348.27 (18) (a) 1. f. Industrial hemp, as defined in s. 94.67 (15r).

**SECTION 7.** 961.14 (4) (t) of the statutes, as affected by [2017 Wisconsin Act 4](#), is renumbered 961.14 (4) (t) (intro.) and amended to read:

961.14 (4) (t) (intro.) Tetrahydrocannabinols, commonly known as “THC”, in any form including tetrahydrocannabinols contained in marijuana, obtained from marijuana, or chemically synthesized, except that tetrahydrocannabinols do not include ~~cannabidiol~~ any of the following:

1. Cannabidiol in a form without a psychoactive effect that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b);

**SECTION 8.** 961.14 (4) (t) 2. of the statutes is created to read:

961.14 (4) (t) 2. Tetrahydrocannabinols contained in fiber produced from the stalks, oil or cake made from the seeds of a *Cannabis* plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of a *Cannabis* plant which is incapable of germination.

**SECTION 9.** 961.32 (3) of the statutes is created to read:

961.32 (3) (a) In this subsection:

1. “Hemp” means the plant *Cannabis sativa*, or any part of the plant including the seeds.

2. “Industrial hemp” has the meaning given in s. 94.55 (1).

(b) A person who is acting in accordance with rules promulgated by the department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may not be prosecuted for a criminal offense under this chapter, or under any municipal ordinance that prohibits conduct that is the same as that prohibited under this chapter, for any of the following:

1. Planting, growing, cultivating, harvesting, processing, or transporting hemp that contains a

delta-9-tetrahydrocannabinol concentration of the crop of not more than 0.7 percent above the permissible limit for industrial hemp on a dry weight basis or that is grown from industrial hemp seed certified under s. 94.55 (2) (c).

2. Selling, transferring, importing, exporting, or taking possession of industrial hemp.

3. Selling, transferring, importing, exporting, processing, transporting, harvesting, or taking possession of hemp that has been certified under s. 94.55 (2) (c), by a laboratory authorized by the department of agriculture, trade and consumer protection to test the delta-9-tetrahydrocannabinol concentration in hemp, as meeting the permissible delta-9-tetrahydrocannabinol concentration limit for industrial hemp.

4. Possessing hemp with a delta-9-tetrahydrocannabinol concentration above the permissible level for industrial hemp if the hemp was certified under s. 94.55 (2) (c) at the time the possessor took possession as meeting the permissible concentration limit for industrial hemp and the possessor had no reason to believe at that time that the certification was incorrect.

5. Taking samples of hemp, transporting samples to a testing facility, or testing samples for their delta-9-tetrahydrocannabinol concentration.

(c) A person who plants, grows, cultivates, harvests, samples, tests, processes, transports, transfers, takes possession of, sells, imports, or exports industrial hemp in violation of a rule promulgated under s. 94.55 (2) (b) may not be prosecuted under s. 94.55 or this chapter unless the person is referred to the district attorney for the county in which the violation occurred by the department of agriculture, trade and consumer protection, and may not be prosecuted under a municipal ordinance that prohibits the same conduct as is prohibited under this chapter unless the person is referred to local law enforcement by the department of agriculture, trade and consumer protection.

(d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity described under par. (b) does not constitute prima facie evidence of a prohibited representation under s. 961.41 (4) (am) 1. a. or b.

**SECTION 10.** 961.442 of the statutes is created to read:

**961.442 Penalties; industrial hemp.** If a person attempts to conceal the commission of a crime under this chapter while representing that he or she is engaging in the planting, growing, cultivating, harvesting, processing, transporting, importing, exporting, selling, transferring, sampling, testing, or taking possession of industrial hemp, the maximum term of imprisonment prescribed by law for that crime may be increased as follows:

(1) The maximum term of imprisonment for a misdemeanor may be increased by not more than 6 months.

(2) The maximum term of imprisonment for a felony may be increased by not more than 3 years.

**SECTION 11.** 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and amended to read:

961.55 (8) (intro.) The failure, upon demand by any officer or employee designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an any of the following constitutes authority for the seizure and forfeiture of the plants described in sub. (7):

(a) An appropriate federal registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

**SECTION 12.** 961.55 (8) (b) of the statutes is created to read:

961.55 (8) (b) Proof that the person is growing or storing the plants in accordance with the requirements, if any, imposed by the department of agriculture, trade and consumer protection under s. 94.55.

**SECTION 13.** 961.55 (9) of the statutes is created to read:

961.55 (9) If a crop intended to be industrial hemp, as defined in s. 94.55 (1), is tested for delta-9-tetrahydrocannabinol levels and the average concentration of delta-9-tetrahydrocannabinol in a whole dry plant is found to exceed 0.7 percent above the permissible limit for industrial hemp, the entire crop on the field where the plant was found shall be seized and destroyed. Before a crop is seized and destroyed under this subsection, the agency whose officers or employees intend to seize and destroy the crop shall provide, to the person licensed under s. 94.55 (3) to grow the crop or to the person's agent or employee, written documentation verifying the test results for the crop that is subject to seizure and destruction.

**SECTION 14.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

973.01 (2) (c) 2. a. Sections 939.621, 939.632, 939.635, 939.645, 946.42 (4), 961.442, 961.46, and 961.49.

**SECTION 15. Nonstatutory provisions.**

(1) **LEGISLATIVE FINDINGS.** The legislature finds all of the following:

(a) That the Cannabis sativa plant used for the production of industrial hemp is separate and distinct from forms of Cannabis used to produce marijuana.

(b) That section 7606 of the federal farm bill of 2014, 7 USC 5940, allows states to establish agricultural pilot programs to study the growth, cultivation, or marketing of industrial hemp.

(c) That industrial hemp is used in products such as building materials, textiles, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle board, plastics, seed meal, cosmetics, seed, oil, and yarn.

(d) That cannabidiol and hemp seed oil have the ability to provide relief for maladies, without psychotropic effect.

(e) That the growth, cultivation, and processing of industrial hemp will provide an alternate crop to vitalize the agricultural sector in this state and will provide production and processing jobs.

(2) **EMERGENCY RULES.** No later than the 90th day after the effective date of this subsection, the department of agriculture, trade and consumer protection shall, using the procedure under section 227.24 of the statutes, promulgate rules under section 94.55 (2) and (3) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until July 1, 2020, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, for emergency rules promulgated under this subsection, the department is not required to prepare a statement of scope of the rules or to submit the proposed rules in final draft form to the governor for approval.