GRAIN & FIBER HEMP EXEMPTION

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A policy initiative led by Agricultural Hemp Solutions, IND HEMP, and the National Hemp Association, and supported by SCOHO, the U.S. Hemp Building Association, and the Global Hemp Association.

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ORIGINS

We plant seeds but not just any seeds. Farmers select the seeds of a plant for an end-use agricultural product. As with any agriculture commodity, the details from soil preparation, seed drilling, and density are all carefully planned for a specific harvest. In this case, let's consider hemp, also referred to as industrial hemp or just hemp.

You may be familiar with the word Cannabis, which classifies the plant genus, including industrial hemp. But among these plant species, there is much diversity. The crop has notable distinctions depending on the intended harvested material, grain, straw, or flower. **Currently, regardless of the farming practices or material harvested, all of these plants are evaluated and thus regulated on one organic compound, tetrahydrocannabinol or better known as THC. An organic compound that is only found in one part of the plant - the flower. Yet, only one sector of the industry grows for flower!**

WHY WE NEED HEMP EXEMPTIONS FOR GRAIN & FIBER

Since 2014, every Agricultural Act, also known as the Farm Bill, has defined hemp and broadened how we may grow it initially for research purposes and now for commercial production. Finally, in 2018, the 45th President of the United States signed into law a new definition recognizing hemp as an agricultural commodity. However, this critical step towards legalizing hemp farming nationwide did not account for industry nuances when growing and processing diverse crops, particularly grain and fiber.

The language that became law assigned authority to the USDA based on a limited and outdated belief. The idea is that because hemp is part of the Cannabis genus, regardless of its target production, it must be subject to THC testing. Although the intent behind this testing is valid in ensuring producers are not propagating a DEA-controlled substance, **the overbearing perception and management of THC create unnecessary challenges for a historically profitable and productive crop.**

The current singular plan that manages three very different crops remains problematic. It puts a cost burden and red tape on farmers who require a more efficient process to succeed and increased acreage to meet demands for grain and fiber. Montana's USDA-approved state Hemp Plan follows performance-based sampling and remediation methods based on risk for higher levels of THC.

Therefore, the idea that certain hemp varieties may be exempt from THC testing is not new, and it's time we work to make this federal policy.

Hemp has been growing, again, in the United States for the last seven (7) years. Pilot programs under the authority of the State Departments of Agriculture have collected data about the varieties grown and have adhered to and strictly enforced THC testing protocols. It's time that we leverage that information to reduce the burden on hemp farmers who grow for grain and fiber. **The end-use products that result from their production are already recognized and exempted from the Controlled Substances Act.** So why should we continue to burden the farmers who grow these crops with background checks, costly sampling, and testing protocols?

In summary, it's simple. **Producers who choose to grow hemp for grain and/or fiber purposes are at very low, if any risk at all, of harvesting an illegal crop. Therefore, federal law should not mandate testing and instead enforce reasonable programs that require harvest designation and visual inspection of hemp fields, both of which are far less burdensome to the American farmer.**

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Cannabis Genotypes, Chemotypes, and Phenotypes: Distinguishing Industrial Hemp from Hemp and High-THC Cannabis

How can we tell the difference between "industrial hemp" (grown for grain and fiber) from "hemp" (grown especially for cannabinoids) from "high-THC Cannabis"?

The genetic traits that characterize different varieties of Cannabis are known as a plant's **genotype**. These traits are pre-determined by the plant's genetic makeup.

The plant's chemical ratios of cannabinoids and terpenes are known as its **chemotype**. Certificates of Analysis from laboratory testing can show these ratios.

The observable traits that result from both the plant's genetics and environment are known as the plant's **phenotype**. Phenotypes are visually recognizable and are especially helpful to distinguish industrial hemp from hemp and high-THC Cannabis.

Specific characteristics of grain-hemp include:

- field crop
- grain-drill seeding (200k-500k plants per acre)
- single stalk with seeded flower head
- both male and female plants, notably visible pollen sacks
- some monoecious varieties
- combine harvested and seed separated
- any minimal floral material integrity destroyed in field

Specific characteristics of fiber-hemp include:

- densely planted row crop
- grain-drill seeding (800k - 1m plants per acre)
- tall fibrous stalks (6-20 ft)
- both male and female plants, notably visible pollen sacks
- some monoecious varieties
- harvested prior to flower and seed maturity
- field retted
- any minimal floral material integrity destroyed in field

Specific characteristics of cannabinoid-hemp and high-THC Cannabis include:

- typically horticultural production (indoor or outdoor)
- outdoor tree-like planting (4-8 ft apart) featuring a low plant population (5k-10k plants per acre)
- branching plants with large flowers featuring concentration of cannabinoids
- female plants only

This is why it's important to look at the chemotypes of hemp grown for cannabinoids and high-THC Cannabis through laboratory THC testing to determine the plant's cannabinoid ratios, and why it is not necessary to test industrial hemp grown for grain or fiber.

Example: young densely planted grain or fiber hemp crop designed for combine harvesting.

Example: mature densely planted grain or fiber hemp crop designed for combine harvesting.

Example: separated rows of young cannabinoid-rich hemp or marijuana designed for harvesting flowers.

Example: mature cannabinoid-rich hemp or marijuana plant producing flower buds.

Proposal for Industrial Hemp Grain and Fiber Exemption

Cannabinoid Hemp Framework Maintained

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Why are the current regulations problematic for grain and fiber industrial hemp?

- Unreasonable financial burden and risk to farmers
- Unnecessary burden on Departments of Agriculture
- Additional costs hinder industrial hemp's ability to compete with other commodity crops
- Confusion with industries including banking, transportation, insurance, and advertising, discourages investment in critical infrastructure
- End-use products hold long-standing exemption under Controlled Substances Act

What is the solution?

A separation between the definition and regulation of industrial hemp from cannabinoid or floral hemp. These crops are easily differentiated with a visual inspection.

Grain and Fiber Industrial Hemp - Exemption Framework

Field crop grown using standard agricultural practices and the harvested material is ONLY grain and/or fiber.

Maintain the current regulatory framework for cannabinoid hemp production with the following new framework for industrial hemp:

- 2018 Farm Bill licensing with added designation for only grain/fiber production & harvest (including GPS coordinates of land on which hemp is produced)
- Signed declaration that producer will only harvest grain/fiber and will not harvest or sell floral material or extract any resin from crop (Note: full use of hemp seed/grain authorized)
- No background check required
- Required visual inspection (i.e. in-person, virtual, aerial with drones, or unmanned aircraft)
- No sampling or testing for uniform production consistent with designation
- If visual inspection reveals inconsistent crop production with designation, documented verification required (i.e. seed/variety receipts, sales contract, planting report), and the Department of Agriculture reserves the right to require harvest inspection.
- Intentional violations: crop destruction, fine/civil penalty, restricted from program participation for 5 years

Why a grain and fiber exemption and not a universal certified seed exemption?

- Certified seed alone creates an inevitable loophole for illegal cannabis cultivation with no verification of cannabinoid crops
- Existing certified varietals are not performance-tested for every climate zone of the U.S.
- Impedes a free-market approach and encourages monopolies

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