

U.S. HEMP PROGRESS & OPPORTUNITIES



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HEMP INDUSTRIES ASSOCIATION

June 12-13, 2018 · 15th International Conference of EIHA · Maternushaus, Cologne, Germany

PROGRESS IN THE LEGAL LANDSCAPE
with Joy Beckerman
President, Hemp Industries Association



CONTROLLED SUBSTANCES ACT OF 1970

21 U.S.C. §802(16)*

(16) The term “marihuana” means all parts of the plant *Cannabis sativa* L. [*sic*], whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

(sentences separated for demonstration)

Such term does not include the **mature stalks** of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized **seed of such** plant which is incapable of germination.

*Marijuana Tax Act of 1937, Pub. 238, 75th Congress, 50 Stat. 551 (Aug. 2, 1937).

§7606 OF THE FEDERAL FARM BILL

“Legitimacy of Industrial Hemp Research” (7 U.S.C. 5940)

698

1 **SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

2 (a) **IN GENERAL.**—Notwithstanding the Controlled
3 Substances Act (21 U.S.C. 801 et seq.), the Safe and
4 Drug-Free Schools and Communities Act (20 U.S.C. 7101
5 et seq.), chapter 81 of title 41, United States Code, or
6 any other Federal law, an institution of higher education
7 (as defined in section 101 of the Higher Education Act
8 of 1965 (20 U.S.C. 1001)) or a State department of agri-
9 culture may grow or cultivate industrial hemp if—

10 (1) the industrial hemp is grown or cultivated
11 for purposes of research conducted under an agricul-
12 tural pilot program or other agricultural or academic
13 research; and

14 (2) the growing or cultivating of industrial
15 hemp is allowed under the laws of the State in which
16 such institution of higher education or State depart-
17 ment of agriculture is located and such research oc-
18 curs.

19 (b) **DEFINITIONS.**—In this section:

20 (1) **AGRICULTURAL PILOT PROGRAM.**—The
21 term “agricultural pilot program” means a pilot pro-
22 gram to study the growth, cultivation, or marketing
23 of industrial hemp—

24 (A) in States that permit the growth or
25 cultivation of industrial hemp under the laws of
26 the State; and

699

1 (B) in a manner that—

2 (i) ensures that only institutions of
3 higher education and State departments of
4 agriculture are used to grow or cultivate
5 industrial hemp;

6 (ii) requires that sites used for grow-
7 ing or cultivating industrial hemp in a
8 State be certified by, and registered with,
9 the State department of agriculture; and

10 (iii) authorizes State departments of
11 agriculture to promulgate regulations to
12 carry out the pilot program in the States
13 in accordance with the purposes of this
14 section.

15 (2) **INDUSTRIAL HEMP.**—The term “industrial
16 hemp” means the plant *Cannabis sativa* L. and any
17 part of such plant, whether growing or not, with a
18 delta-9 tetrahydrocannabinol concentration of not
19 more than 0.3 percent on a dry weight basis.

20 (3) **STATE DEPARTMENT OF AGRICULTURE.**—
21 The term “State department of agriculture” means
22 the agency, commission, or department of a State
23 government responsible for agriculture within the
24 State.

Agricultural Act of 2014
Signed into Law
on Feb. 7, 2014

Gives broad authority to
State Depts. of Ag.
& Institutions of Higher
Learning in States that
permit the growth or
cultivation of industrial
hemp

§7606 OF THE FEDERAL FARM BILL

“Legitimacy of Industrial Hemp Research” (7 U.S.C. 5940), con’t.

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§7606 OF THE FEDERAL FARM BILL

Key Definitions

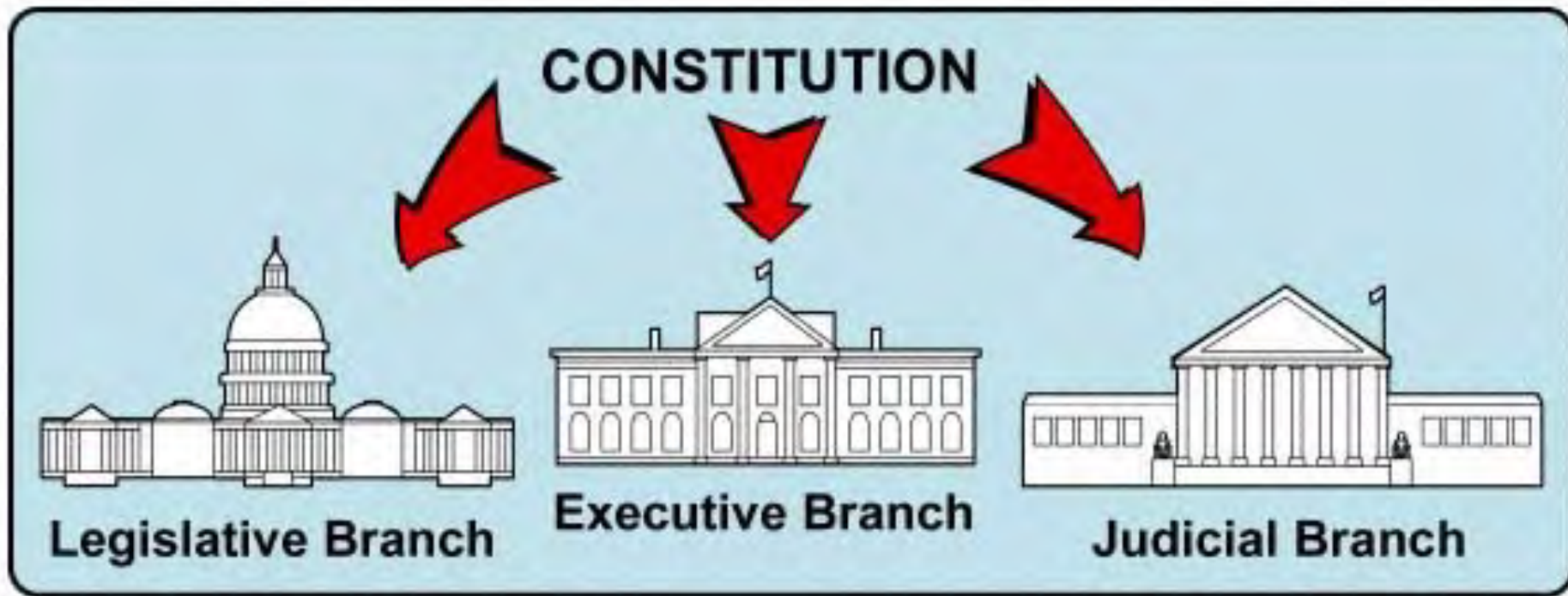
(1) AGRICULTURAL PILOT PROGRAM.—The term “agricultural pilot program” means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

Includes “marketing” research, successfully interpreted in other states as “commerce”

(2) INDUSTRIAL HEMP.—The term “industrial hemp” means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Historical distinction from marijuana; and no carve-out for “resins extracted therefrom” (unlike in the CSA!)

WHERE HEMP IS CONCERNED, IT'S *THE FEDS. VS. THE FEDS!*



USDA, DEA, FDA §7606 STATEMENT OF PRINCIPLES (8/12/16)

- “Marketing” research is not for the purpose of general commercial activity.
- May be sold in and among Ag. Pilot Program States, but may not be sold in States where such sale is prohibited.
- Industrial hemp plants and seeds may not be transported across State lines.
- §7606 did not amend the Federal Food, Drug, and Cosmetic Act.
- “The Federal Government” does not construe §7606 to alter the requirements of the Controlled Substances Act that apply to the manufacture, distribution, and dispensing of drug products containing controlled substances.
- The term “industrial hemp” includes...any part of such [*Cannabis sativa* L.] plant...that is used exclusively for industrial purposes (fiber and seed) with a [Δ^9 THC] concentration of not more than 0.3% on a dry weight basis. The term “tetrahydrocannabinols” includes all isomers, acids, salts, and salts of isomers of tetrahydrocannabinols.

U.S. CONSOLIDATED APPROPRIATIONS ACT OF 2018

H.R. 1625 §729, Became Law 3/23/18

The 2017 Act also included similar language; H.R. 244 §773; Became Law 5/5/17

The 2016 Act also included similar language; H.R. 2029 §763; Became Law 12/18/15

24 SEC. 729. None of the funds made available by this
25 Act or any other Act may be used—
1 (1) in contravention of section 7606 of the Ag-
2 ricultural Act of 2014 (7 U.S.C. 5940); or
3 (2) to prohibit the transportation, processing,
4 sale, or use of industrial hemp, or seeds of such
5 plant, that is grown or cultivated in accordance with
6 subsection section 7606 of the Agricultural Act of
7 2014, within or outside the State in which the indus-
8 trial hemp is grown or cultivated.

<https://www.congress.gov/bill/115th-congress/house-bill/1625/text>

In May 2014, the DEA Admitted to “Non-Tetrahydrocannabinol” [Marijuana] Derivatives



“There are 237 researchers registered with DEA to perform studies with marijuana, marijuana extracts, and non-tetrahydrocannabinol marijuana derivatives that exists in the plant, such as cannabidiol and cannabitol.” (Emphasis added.)

Link Gone! <http://www.dea.gov/docs/dangers-consequences-marijuana-abuse.pdf> at Page 4

THE CURIOUS LEGAL STATUS OF CBD & HEMP-DERIVED CANNABINOIDS



7/1/11 DEA PROPOSED RULE RE “MARIHUANA EXTRACT”

The UN Conventions on international drug control* treat extracts from the *Cannabis* plant differently than marihuana or tetrahydrocannabinols. Marihuana Extract means “**extracts that have been derived from any plant of the genus *Cannabis* and which contain cannabinols and cannabidiols.**” Such extracts of marihuana would continue to be treated as Schedule I controlled substances.

*The Single Convention on Narcotic Drugs, 1961 (“Single Convention”)

*The 1971 Convention on Psychotropic Substances (“Psychotropic Convention”)

https://www.deadiversion.usdoj.gov/fed_regs/rules/2011/fr0705_7.htm

7/1/11 DEA PROPOSED RULE RE “MARIJUANA EXTRACT”

DID NOT CONTEMPLATE THE 2014 FARM BILL

Docket No. DEA-342P; Filed 7/1/11; Notice in the Fed. Register 7/15/11

https://www.deadiversion.usdoj.gov/fed_regs/rules/2011/fr0705_7.htm



12/7/16 FINAL RULE RE “MARIHUANA EXTRACT”

Notice in the Fed. Register 12/14/16; Effective 1/13/17

Marihuana Extract means “**an extract containing one or more cannabinoids that has been derived from any plant of the genus *Cannabis***, other than the separated resin (whether crude or purified) obtained from the plant. ”

<https://www.federalregister.gov/documents/2016/12/14/2016-29941/establishment-of-a-new-drug-code-for-marihuana-extract>



THE HEMP INDUSTRIES ASSOCIATION RESPONDS, FILING A PETITION FOR REVIEW IN THE 9TH CIRCUIT ON THE EFFECTIVE DATE OF 1/13/17

U.S. Court of Appeals for the Ninth Circuit Case No. 17-70162

Hemp Industries Association, et al.

v.

*U.S. Drug Enforcement Administration and Chuck Rosenberg, as Acting
Administrator, Drug Enforcement Administration*



3/14/17 DEA CLARIFICATION RE THE “MARIJUANA EXTRACT” FINAL RULE

As the scientific literature indicates, cannabinoids, such as tetrahydrocannabinols (THC), cannabinols (CBN) and cannabidiols (CBD), are found in the parts of the cannabis plant *that fall within the CSA definition of marijuana, such as the flowering tops, resin, and leaves.*

According to the scientific literature, cannabinoids are **not** found in the parts of the cannabis plant that are excluded from the CSA definition of marijuana, except for trace amounts (typically, only parts per million) *that may be found where small quantities of resin adhere to the surface of seeds and mature stalk.*

Thus, based on the scientific literature, it is not practical to produce extracts that contain more than trace amounts of cannabinoids using *only the parts of the cannabis plant that are excluded from the CSA definition of marijuana, such as oil from the seeds.*

https://www.deadiversion.usdoj.gov/schedules/marijuana/m_extract_7350.html

ALL BRIEFING IS AVAILABLE ON YOUR THUMB DRIVES

U.S. Court of Appeals for the Ninth Circuit Case No. 17-70162

HIA, et al. v.

*U.S. Drug Enforcement Administration and Chuck Rosenberg, as Acting
Administrator, Drug Enforcement Administration*

- 4/3/17: HIA's Opening Brief Filed
- 6/2/17: DEA's Response Brief Filed
- 7/28/17: HIA'S Reply Brief Filed
- 1/11/15: Government *Amicus* Brief Filed*
- 2/15/18: Oral Arguments
- 4/30/18: Memorandum (Unpublished Opinion)



4 PREMISES OF OUR CASE

U.S. Court of Appeals for the Ninth Circuit Case No. 17-70162

HLA, et al. v. DEA, et al.

- (1) Government overreach;
- (2) Staleness (five years of unexplained delay between the Proposed Rule and Final Rule);
- (3) The plain language of Drug Code 7350 conflicts with the law as written (*i.e.* “plant *Cannabis sativa* L. [*sic*]” vs. “genus *Cannabis*”; and
- (4) That the enactment of the Farm Bill served as intervening legislation, and should have forced DEA to amend the Proposed Rule accordingly.

SUMMARY OF 4/30/18 MEMORANDUM (UNPUBLISHED OPINION)

U.S. Court of Appeals for the Ninth Circuit Case No. 17-70162

HLA, et al. v. DEA, et al.

- “Memorandum” (Unpublished Opinion) “[T]his disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.”
- Split the baby – denied Petition due to administrative procedure
- Acknowledges that because the Farm Bill contemplates potential conflict between the Controlled Substances Act and preempts it, the “Final Rule therefore does not violate the [Farm Bill].”

MAY 22, 2018 DEA INTERNAL DIRECTIVE REGARDING THE PRESENCE OF CANNABINOIDS IN PRODUCTS AND MATERIALS MADE FROM THE CANNABIS PLANT

- In 2004, the U.S. Court of Appeals for the Ninth Circuit enjoined DEA from enforcing certain regulations with respect to tetrahydrocannabinols (THC). *See Hemp Industries Ass'n v. DEA*, 357 F.3d 1012 (9th Cir. 2004).
- Products and materials that are made from the cannabis plant and which fall outside the CSA definition of marijuana (such as sterilized seeds, oil or cake made from the seeds, and mature stalks) are not controlled under the CSA. ... **The mere presence of cannabinoids is not itself dispositive as to whether a substance is within the scope of the CSA; the dispositive question is whether the substance falls within the CSA definition of marijuana.**
- This directive does not address or alter DEA's previous statements regarding the drug code for marijuana extract and regarding resin. ... As DEA has previously explained, the drug code for marijuana extract extends no further than the CSA does, and it thus does not apply to materials outside the CSA definition of marijuana.

THE PROMISE OF PENDING FEDERAL LEGISLATION



PENDING FEDERAL LEGISLATION
HEMP FARMING ACT OF 2018 (SENATE & HOUSE)

- Amends six Acts to remove all ambiguity and make way for the full commercialization of hemp as an agricultural commodity
- Amends both the term and Farm Bill definition of “[industrial] hemp”
- State Depts. of Ag. & Tribes to submit programs created in consultation with the Governor “chief law enforcement officer” to USDA for approval (& oversight)
- Senate Majority Leader M. McConnell has employed a Rule 14
- Senate Minority Leader C. Schumer has co-sponsored

PENDING FEDERAL LEGISLATION, CON'T.

AGRICULTURAL IMPROVEMENT ACT (“FARM BILL”) OF 2018

- 6/8/18 Senate Ag. Committee includes entirety of the Hemp Farming Act of 2018 in the current draft Farm Bill
- 6/13/18 Farm Bill to be “marked up,” amended, considered by full Senate Ag. Committee, then sent to the Senate floor for a vote

(1) HEMP.—The term ‘hemp’ means 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.

DEVELOPMENTS IN THE U.S. HEMP INDUSTRIES

with Colleen Keahey Lanier
Executive Director, Hemp Industries Association



HIA MEMBERSHIP GROWTH & PROGRESS



2014 - Est. 200 Members

- Chapter program created; 1st chapters were TN, IN, KY, NY, WA & OR
- Farming Memberships introduced based on the USDA Farm Income Scale

2015 - Est. 300 Members

- HIA conference held in a legal hemp state for the 1st time with 1st US Farm Tour - Lexington, KY

2016 - Est. 400 Members

- HIA files administrative petition with the DEA to remove industrial hemp from the CSA
- HIA conference held in Colorado and educational tracks expanded with a focus on CBD

2017 - Est. 600 Members

- HIA takes legal stance against DEA and opens a lawsuit to challenge “marijuana extract” rule

2018 - Est. 800 Members

- Hemp Industries Association Reaches Settlement with DEA and Affirms Victory from 2004 Hemp Foods Rules Challenge. DEA published guidance to Federal Agencies regarding hemp and CSA.

U.S. HEMP IMPORTS FROM 2011 – 2016

THE U.S. IS THE LARGEST HEMP IMPORTER ON EARTH

“The sales data on hemp foods and body care, collected by market research from SPINS, was obtained from natural and conventional retailers *excluding* Whole Foods Market, Costco and certain other key establishments, who do not provide data – and *thus it significantly underestimates actual sales. ...*”

2011: \$425 million
2012: \$500 million
2013: \$581 million
2014: \$620 million
2015: \$573 million
2016: \$688 million

Sources: Hemp Industries Association, *Hemp Business Journal* & Vote Hemp

\$688 Million Total U.S. Hemp-Based Product Sales by Category in 2016



Source: *Hemp Business Journal* & Vote Hemp

AGRICULTURAL PILOT PROGRAM ACRES PLANTED 2016-2017

19 states cultivated hemp
25,774 acres (+16,004)

* Means that state does not
track acres *planted*; only
acres *permitted* to be planted

STATE	2016 ACRES PLANTED	2017 ACRES PLANTED	INCREASE
Colorado	5,921	9,900	3,979
Hawaii	1	0	(1)
Indiana	2	2	0
Kentucky	2,525	3,200	675
Maine	1	30	29
Minnesota	51	1,205	1,154
Montana	0	542	542
Nebraska	1	1	0
Nevada	216	428.5	212.5
New York	30	2,004	1,974
North Carolina	0	965*	965
North Dakota	70	3,020	2,950
Oregon	500	3,469	2,969
Pennsylvania	0	36	36
Tennessee	225	130	(95)
Vermont	180	575*	395
Virginia	37	78	41
Washington	0	175	175
West Virginia	10	13.5	3.5
TOTALS:	9,770	25,774	16,004

Sources: Department of Agriculture in Each State; Purdue University



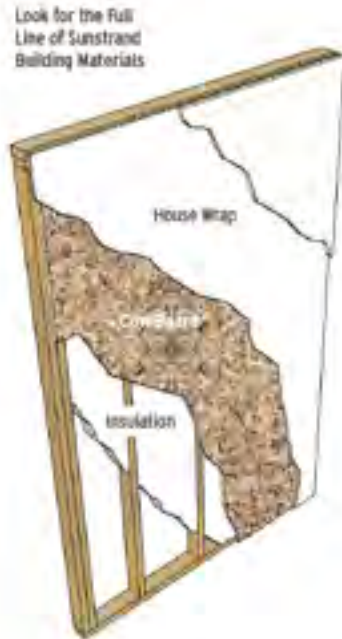
Sunstrand Sustainability Promise

We work closely with our farming community to procure the best bio-materials including, hemp, kenaf, flax and bamboo. From seeds to harvest, we pay close attention so that we always deliver consistent, high-quality products, that are rapidly renewable and environmentally friendly.

Applications for Natural CoreBoard*

- Cabinetry Components
- Wall Partitions
- Lightweight Moldings
- Decorative Panels
- Furniture Components
- Doors
- Millwork
- Displays, and more

* Sample prototype for aesthetic evaluation



Working with Natural CoreBoard

Sunstrand CoreBoard is a medium density, light weight board that machines similar to other hard-board products with standard woodworking tools.

Specifications

THICKNESS	DENSITY	SHEET SIZE	BINDER
3/8"	35lb/ft ³	4'x8'	Bio-based

APA (Engineered Wood Association) PS2 Standards drive development
 E84 Fire/Smoke Rating: Passes Class B
 Mechanical properties determined by ASTM Standards

Other Sustrand Innovations:

Hemp insulation batt which is an alternative to fiber glass insulation. It is a hemp and kenaf blended material with unspecified binder in the proprietary blend is fire, mold, and fungus resistant.



PUREHEMP
TECHNOLOGY

- Patented continuous countercurrent reactor (CCR) technology

1. Modified extruder using standard off-the-shelf equipment
2. Continuous countercurrent reactors decrease processing time and increase product quality and economic viability
3. Not proven at commercial scale





Seeking U.S. FDA GRAS Status

WINNIPEG, Manitoba, March 6, 2018 /PRNewswire/ -- Manitoba Harvest, the global leader in hemp foods and its partner ingredient supplier, Hemp Oil Canada, announces the company's complete line of hemp seeds, oil and protein powder have received self-affirmed Generally Recognized as Safe (GRAS) status, and has officially submitted to FDA for GRAS Notification.

The GRAS status removes regulatory barriers for food innovators, ingredient buyers, and mass-market food service buyers to use hemp foods in their product offerings. The use of hemp is expanding rapidly, and is now an in-demand ingredient for fast growing specialty food companies, but also large scale multinational CPG companies seeking to respond to consumer demand for more natural, and high nutrition, products.



GIVING

2% Philanthropic giving to Realm of Caring and non-profits focused on social and environmental solutions.

RESEARCH & DEVELOPMENT

CW Hemp is working on CBD products that synergize with other established herbal supplements and nutraceutical compounds



Turmeric
and others...



BIOAVAILABILITY

Elixinol CBD Oil Liposomes are designed specifically to get our organic hemp oil into your body faster than ever. Liposomes are carriers of hemp oil – they ensure it can pass through bodily membranes with ease. Liposomal CBD can be mixed with water or taken directly under the tongue as a spray. Check out our online store for a range of tasty flavors of liposomal CBD



A Liposome, with the phosphate heads (white) facing outwards, and the fatty acids (yellow) inward.

LACK OF INDUSTRY DEFINITIONS IMPACTING INGREDIENT CERTIFICATION & ACCEPTANCE FROM REGULATORY ORGANIZATIONS, SUCH AS THE AMERICAN ANIMAL FEED CONTROL (AAFCO)

Solutions Being Sought: HIA Committee & Task Force Members are coordinating with U.S. Hemp Roundtable 501(c)4 and ASTM's D37 Committee on Cannabis on industry definitions and standards



VARIETY TRIALS

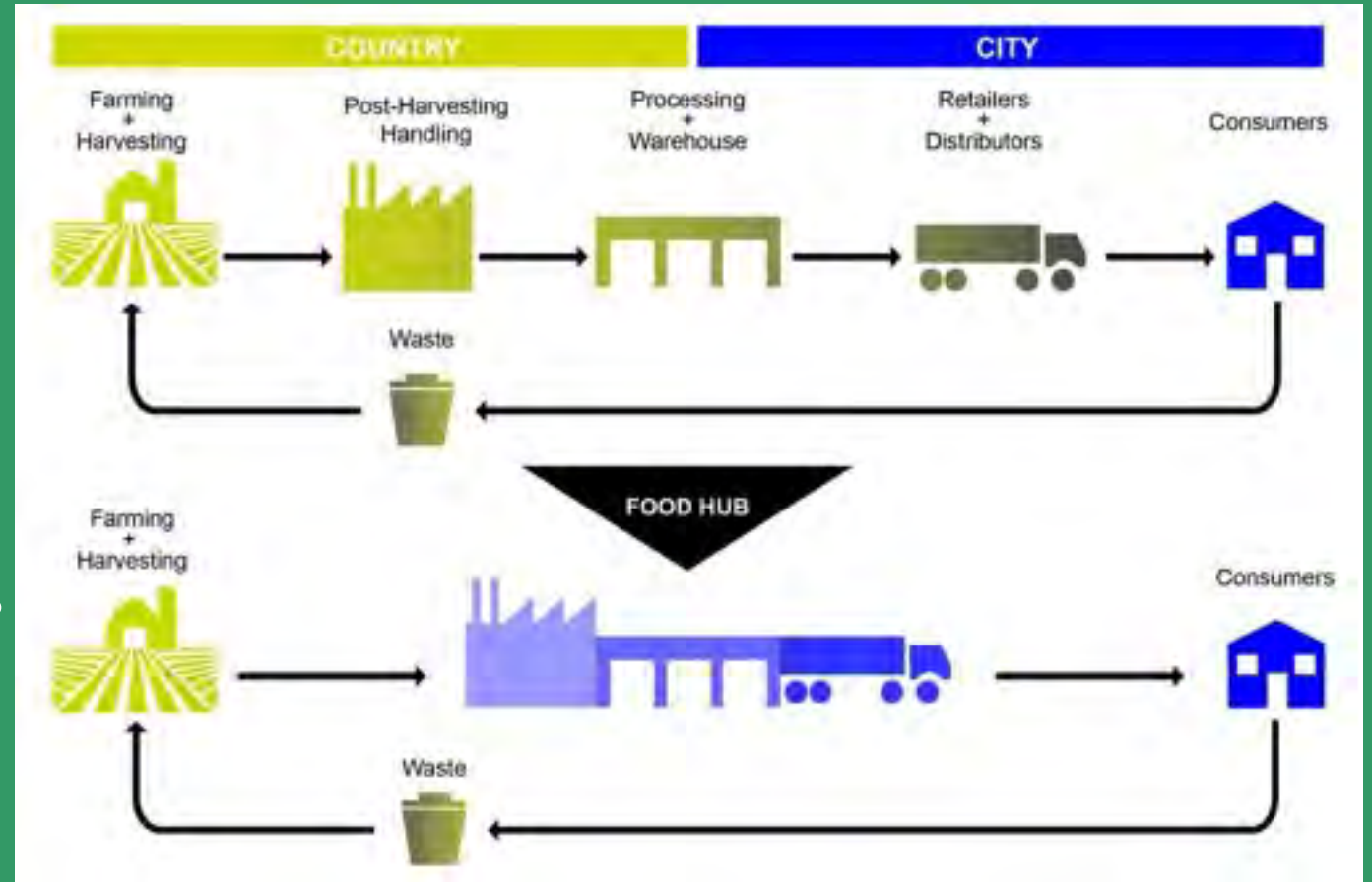
CLIMATE – SOIL ECOLOGY - PHOTOPERIOD

Solutions Being Sought: Various State Depts. of Agriculture [and Institutions of Higher Education] are collecting data on variety performance. The HIA and others are also providing forums for farmers and researchers to share variety performance data.



LACK OF INDUSTRY INFRASTRUCTURE FOR FOOD & PARTICULARLY FIBER

Solutions Being Sought:
Educating and opening dialogue with investors, entrepreneurs, and economic development authorities about the needs and promising opportunities of the wide spectrum of hemp industries; as well as with agricultural partners, institutions of higher education, and innovators.



UNABLE TO COMPETE WITH CURRENT MARKET

Solutions Being Sought: Educating and encouraging those who can fund infrastructure; continuing efforts toward federal and state legalization, and improvement of laws and regulations to eliminate prohibitive cultivation / processing requirements which prevent hemp from being grown on a scale with other ag commodity crops.



BUILDING A TRANSATLANTIC BRIDGE

with Rick Trojan
Vice President, Hemp Industries Association



BUILDING THE HEMP BRIDGE

- Education - Understand the hemp business landscape
- Networking - Identify, meet and build relations
- Partnerships - Determine who is best partner
- Execution - Create plan and execute strategy
- Repeat, repeat, repeat



CURRENT TRENDS

- Mitch McConnell (Senate Majority Leader) introduces Hemp Farm Act of 2018
- DEA seizures of hemp extract (CBD) being imported from EU to USA
- World Health Organization 2018 review of CBD as non addictive and has beneficial medical use
- World Anti Doping Agency (WADA) removal of CBD from banned substances
- June 26 - FDA makes decision on Epidiolex by GW Pharmaceuticals
- Path towards bi-directional import/export between EU & USA becoming more clear

THANK YOU EIHA & CONVENTION DELEGATES!



Joy Beckerman, Rick Trojan & Colleen Keahey Lanier
Hemp Industries Association
www.TheHIA.org