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Industrial Hemp: Legal Issues and Overview

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Major Statutes

Animal Health and Disease Research, 7 U.S.C. §§ 3191-3201
Animal Welfare Act, 7 U.S.C. §§ 2131-2139
Fishery Conservation and Management, 16 U.S.C. §§ 1801-1891
Discussion Points:

- Brief Background
- Legal Status/Mechanics
- NASDA policy
- Comment Points/Questions
Background

- Hemp (a/k/a “industrial hemp”) vs. Marijuana
  - *Cannibas sativa*
  - Delta-9 tetrahydrocannabinol (THC)

- IH legally produced in approx. 30 countries
  - Fiber, seed, or dual purpose
  - About 200,000 acres globally, China largest producer

- Economics of IH: mixed
Legal Status/Mechanics: CSA

- **Controlled Substances Act of 1970 (CSA)**
  - Does **NOT** make growing hemp illegal
  - DOES make illegal growing hemp without permit from Drug Enforcement Agency

- DEA does not differentiate between varieties of *Cannibas sativa* that are low vs. high in THC

- State-issued license/permit does not change this reality
Section 7606 ("Legitimacy of Industrial Hemp Research") reads, in part:

Notwithstanding the Controlled Substances Act . . . or any other Federal law, an institution of higher education . . . or a State Department of Agriculture may grow or cultivate industrial hemp if: . . .
(1) the IH is grown or cultivated for purposes of research conducted under an **agricultural pilot program** or other agricultural or academic research; and

(2) the growing or cultivating of IH is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.
“Agricultural pilot program” = pilot program to study the growth, cultivation, or marketing of IH in a manner that:

- ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate IH;

- requires that sites used for growing or cultivating IH in a State be certified by, and registered with, the State department of agriculture; and

- authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States
“Industrial hemp” means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol H. R. 2642—265 concentration of not more than 0.3 percent on a dry weight basis.
States’ Activities

• At least 15 states have laws in place that fall within 2014 Farm Bill language
  ○ 1990’s through recent past

• Common provisions, include but not limited to:
  ○ Excludes IH from state law definition of “controlled substances”
  ○ Requires licensing with state
  ○ IH defined based on percentage of THC (.3% or less)

• Others have passed resolutions calling for more study, created commissions

• Many others have proposed laws
Legal Status/Mechanics: Federal Proposals

- **Industrial Hemp Farming Act**
  - Proposed several years ago as well as in 113th Congress

- Would amend the CSA to remove low-level THC hemp from the CSA definition of “marijuana”
NASDA Policy

- NASDA supports revisions to federal law authorizing commercial hemp production

- Urges USDA, DEA, Office of Nat’l Drug Control Policy to adopt official definition of IH that comports with other IH-producing countries’ definitions

- Urges DEA to revise policies to allow USDA to establish regulatory program
• Sword of Damocles = CSA/DEA policy
• States can establish structure in the meantime
• Farm Bill-dependent currently (and limited in scope)
• Institutions of higher education
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