

Industrial Hemp Advisory Board (IHAB) Meeting  
California Department of Food and Agriculture (CDFA)

1220 N Street, Auditorium  
Sacramento, CA 95814

**Thursday, October 19, 2017**  
9:00 AM – 1:00 PM

Board Members

Van Butsic  
Eric Carlson  
Rick Gurrola  
Allison Justice  
Matt McClain  
Valerie Mellano  
Tom Pires  
David Robinson (absent)  
John Roulac  
Lawrence Serbin  
Richard Soria

CDFA & Guests

G.V. Ayers  
George Bianchini  
Chris Boucher  
Alex Brant-Zawadzki  
Matt Butterworth  
Kevin Carmichael  
Josh Chase  
Jeff Chedester  
Don Chesney  
Jan Corlett  
Cory D. Jackson  
Crystal D'Souza  
Manny Dias  
Walter Dombrowski  
Justin Eve  
Victor Francovich  
Daniel Garcez  
Rachel Garewal  
Robert Garren  
Tim Gibson  
Zander Gladish  
Einen Grandi  
Natalie Krout-Greenberg  
Marue Guizar  
Tyler Hoff  
David Hopkins  
Michael Jensen  
Kevin Johnson

Joshua Kress  
Brenda Lanini  
Kristy Levings  
Joe Livaich  
Mike McCoume  
Kevin Moats  
Amber Morris  
Greg Muller  
Kevin Novell  
Richard Parrott  
La Vonne Peck  
Tim Pelican  
Carl Pfeiffer  
Heather Podoll  
Wayne Richman  
Jane Roberti  
Rick Roberti  
Weston Roberti  
Taylor Roschen  
Melissa Sanchez  
Robin Sanchez  
Duane Schnabel  
Dodee Schmitt  
Niki Vandenburg  
Jere Visalli  
Cathy Vue  
Kristina Weber  
Marie Ziegel

**1. Roll Call and Opening Remarks**

Meeting called to order at 9:07 AM by Eric Carlson, Board Chair. Board members and staff provided self-introductions.

Draft minutes from the June 29, 2017 Board Meeting were presented to the Board. No changes were suggested. This item was left off of the public notice, therefore no motion was made. The minutes will be presented to the Board again for approval at the next meeting. In the interim, the draft minutes will be posted to the Program's website pending approval.

**2. Reminder on Forms and Information for Members**

Joshua Kress provided the Board with a brief reminder on required forms and information, including Form 700, annual Ethics Training, and travel expense claims. Kress also reminded the Board that discussions or actions by Board Members regarding Board business must be conducted during a publicly accessible meeting in accordance with the Bagley-Keene Open Meeting Act, and noted that Board Members could contact Program staff with any questions regarding the laws and regulations that govern Board actions.

There were no motions or public comments regarding this item.

**3. Cultivation by Established Agricultural Research Institutions**

Carlson and Kress reported that a meeting between CDFA and the University of California, Office of the President (UCOP) had been scheduled since the previous meeting, but was postponed and would be rescheduled. The document requested by the Board at the previous meeting, outlining the legal status for industrial hemp research by established agricultural research institutions, was developed and was under review by the Department.

Kress reminded the Board that established agricultural research institutions were exempt from most requirements for industrial hemp cultivation under California law, and that such institutions were not required to notify the state and/or county prior to cultivation. Kress noted that since the prior meeting a county sheriff had abated one planting where a grower claimed to be eligible for the exemption and the county enforcement agencies did not feel the grower provided sufficient evidence that the planting was being grown by an established agricultural research institution.

To help provide clarity and consistency in enforcement, Kress suggested CDFA promulgate regulations to assist with these interactions, especially those defined in California Food and Agricultural Code (FAC) Section 81000(c)(1). Kress proposed outlining what documentation CDFA and the commissioner could or should ask for when notified of or discovering an industrial hemp planting, allowing the commissioner to provide written confirmation of exemption to an institution, and clarifying that if the exempt status cannot be confirmed then registration is required.

Rick Gurrola agreed that regulations were necessary to help ensure uniform and consistent enforcement.

Kress clarified that the regulations could not further restrict the definition of who qualified as an established agricultural research institution, but that growers could be asked to provide written documentation confirming that a planting was being grown by such an institution, and that regulations could help clarify the process for requesting and providing such documentation.

Valerie Mellano asked if research activities were required to take place on land owned or leased by the institution. Kress replied that the law exempted the institution performing the cultivation, but did not specify where the crop was to be grown.

Gurrola added that it was important to have regulations in place to help ensure uniform application of the law, and added that he and other commissioners were working closely with their county counsels to apply the law as fairly and consistently as possible.

The Board further discussed the state and federal definitions of established agricultural research institutions, how such institutions are regulated in other states, and the purpose of the Board-requested document mentioned previously.

Board Motion #1: Rick Gurrola moved to recommend that CDFA promulgate regulations that provide for the county agricultural commissioner to request written documentation regarding proposed or established plantings of industrial hemp by established agricultural research institutions to confirm the institution's status as exempt from registration, including providing a letter to the institution regarding its exempt status upon confirmation, and that CDFA develop a sample memorandum of understanding that could be used by institutions and growers that collaborate on such plantings. Richard Soria seconded.

The Board voted on Motion #1 as follows:

Yes: Van Butsic, Eric Carlson, Rick Gurrola, Allison Justice, Matt McClain, Valerie Mellano, Tom Pires, John Roulac, Lawrence Serbin, Richard Soria  
No: None  
Absent: David Robinson

Motion carried.

George Bianchini stated that the previously mentioned abated planting was performed by his organization and expressed his concerns with the situation.

G.V. Ayers of Gentle Rivers Consulting expressed his concern that CDFA proposing regulations regarding established agricultural research institutions could unintentionally cause delays for counties that would otherwise allow for cultivation by such institutions in order to wait and ensure compliance with a proposed rule.

Alex Brant-Zawadzki commented that opposition to industrial hemp due to the inability to distinguish the difference between hemp and cannabis was based on inaccurate information.

Christopher Boucher, President of Farmtiva, requested guidance on how farmers can move raw products through border checks and what paperwork or protocol was required, and asked about the timeline for registration with the county agricultural commissioner.

Wayne Richman, Executive Director of the California Hemp Association, presented the Board with a letter from the California State Sheriffs' Association, dated March 21, 2013, supporting Senate Bill 566 (attachment).

#### **4. Brief Overview of the Rulemaking Process**

Kress provided the Board with a Regular Rulemaking Flowchart (attachment) prepared by the Office of Administrative Law (OAL), and briefly reviewed the rulemaking process under the California Administrative Procedures Act.

For further information, Kress recommend reviewing publications on rulemaking published by the OAL ([www.oal.ca.gov](http://www.oal.ca.gov)), such as the Guide to Public Participation in the Regulatory Process.

Kress noted that CDFA would continue to work with the Board on recommendations for development of regulations, and that CDFA would also seek additional information on the scope and impact of requested changes from the Board to help with the development of supporting documentation for any rulemaking. Kress also noted that Board or working group meetings to further discuss proposed regulations in more detail could be scheduled when necessary.

Carlson asked G.V. Ayers to briefly comment on a request from the industry for emergency regulations. Ayers reported that International Hemp Solutions developed a proposal for legislation to provide CDFA with authority for emergency regulations regarding industrial hemp registration fees. The proposal was presented to committees and members of both houses of the legislature with the intent of adding the language through an amendment of an existing bill or including it in a trailer bill. There was an agreement to include the proposal in Assembly Bill 64; however AB 64 was held in the Senate Appropriations Committee. In the end, no legislative home was found for the proposal during the 2017 legislative session.

There were no motions regarding this item.

## **5. Review of Program Budget**

Kress presented an update on the Program's budget (attachment). The total Department-approved budget for Fiscal Year 2017/18 was \$36,656, and included staffing of 10% of one Senior Environment Scientist (Carl Pfeiffer) and 15% of one Associate Governmental Program Analyst (Cathy Vue). However, the workload for program staff had been significantly higher thus far in order to perform the work requested by the Board, including development of regulations, public outreach, response to public inquiries, and development of a registration system.

In order to better perform the work requested, and to lessen the impact on existing programs, CDFA proposed to the Board to increase the budget to replace the part-time work of Pfeiffer and Vue with one Senior Environmental Scientist to work on the Industrial Hemp Program full-time, with some support and supervision from Vue and Kress, respectively. Kress noted that any time spent by staff on the Industrial Hemp Program and the Board was charged to the Program, and that increased staffing would also result in increased debt to be paid back once fee collection began.

Tom Pires asked about the source of funds for the Industrial Hemp Program. Kress responded that the program was considered to be "continuously appropriated", and that in such programs fees collected are placed into a reserve, and then expenditures are paid out of that reserve. As this program had not yet collected any fees, the program was borrowing funds against existing reserves of other continuously appropriated programs, which would be paid back once the program began collecting registration fees. No General Funds, loans, or other appropriations had been made for this program by the legislature.

Carlson noted that, unlike California, the state of North Carolina had required the private sector to raise \$200,000 in order to establish the state's program. Carlson recommended approving the request for additional funds to hire a full-time staff member for the Program.

John Roulac noted that increases in debt now would lead to increases in fees later, and that increases in fees would lead to less farmers wanting to participate, and that lower participation would lead to less revenue generated, and so on. Roulac suggested hiring of a half-time employee rather than a full-time one.

Kress noted that based on the workload thus far, he estimated that CDFA would exceed the existing budget for FY 2017/18, even without hiring additional staff.

The Board further discussed Program staffing, possible timelines for paying off incurred debt, and how that might affect the fee structure.

Board Motion #2: Matt McClain moved to recommend to the Secretary an increase in the program budget for Fiscal Year 2017/18 from \$36,656 to \$170,983, as presented, in order for the program to hire one additional full time Senior Environmental Scientist (Specialist) using an existing position to work exclusively on industrial hemp cultivation. Van Butsic seconded.

Bianchini commented that Proposition 64 included a \$30,000,000 loan to fund state activities, and that the proposition included industrial hemp. Bianchini recommended that the Board contact the Bureau of Cannabis Control to seek funding from that loan for the Program.

Duane Schnabel noted that regardless of the source of the funds, whether continuously appropriated or from the General Fund (as with the Prop 64 funds), the Program would be funded through a loan, and that the method of repayment would be the same in either.

Justin Eve agreed with Bianchini's comment to seek Prop 64 funds, and asked if the industry could work with the Department on raising private capital to provide start-up funding for the Program. Schnabel responded that the state was prohibited from accepting funds that are not appropriated by the legislature.

Brant-Zawadzki asked if interested parties could donate their time to assist the Department in the development of the Program. Schnabel responded that the Department did occasionally hire volunteers, but that they were still required to go through the civil service hiring process. Kress added that the individuals who were already working in the industry would likely not be eligible due to conflicts of interest.

Richman noted that the California Hemp Association had established the California Hemp Foundation to assist with funding at the University of California and elsewhere.

Carlson suggested that the motion be held until after discussion of the following agenda item. McClain agreed to table the motion.

## **6. Proposal of Fee Structure for Registration**

Kress reminded the Board that a registration fee had to be set in regulation in accordance with the Administration Procedures Act, and noted that upon recommendation from the Board, the program would develop a rulemaking package to propose regulations. Kress noted that California law provided registration for growers for commercial cultivation and seed breeders, the registration application was to be accompanied by registration fee (or renewal fee), and such registration was valid for two years. California Food and Agricultural Code (FAC) Section 81005 required CDFA to establish a registration fee and renewal fee, which would then be administered by the county agricultural commissioner.

As discuss in the previous meeting, the cost of administering this program would likely vary greatly from county to county. Multiple existing agricultural programs allow the county boards of supervisors to set county fees in order to ensure that each county can recover its costs.

CDFA proposed a fee structure consisting of a minimum registration fee of \$1,000, with a provision to allow each county to set the fee at a higher rate in order to recover its costs. Regardless of a county's total registration fee, the county would redirect \$1,000 per applicant to CDFA. Kress estimated that a fee of \$1,000 per registrant would be sufficient to cover the Program's costs. The county would notify the Program of any fee structure that is established by the board of supervisors, which would be distributed and posted online for the public.

Gurrola noted that he supported the recommendation, citing phytosanitary certification as a program where costs vary greatly from county to county. Gurrola asked about the county retaining the administrative cost of the program. Kress responded that the intent would be for the county to consider the administrative costs and any other costs in the establishment of a registration fee.

Serbin asked if the fee would be paid to the county or to CDFA directly. Kress responded that FAC § 81005 required that the county collect the fee and redirect the funds to CDFA.

Serbin asked if the \$1,000 fee would be per registrant, regardless of acreage. Kress responded that CDFA's costs for administration and oversight of the Program should be similar for each registrant, regardless of the size of the planting, while noting that the county could set its fee based on acreage in order to adequately recover its costs.

Kress added that the Board could adjust or further specify the fee structure at some point in the future. As an example, Kress noted that the law mentioned an assessment but did not specify collection of an assessment on the sale of hemp seeds or products. Such an assessment on a specific product could be established by the Board at a later date. In the meantime, CDFA recommended moving forward with the proposed fee structure as a starting point to begin registration and cultivation by growers.

Pires expressed concern with charging the same registration fee for a farmer who has ten acres and for a farmer who has one thousand acres. Kress responded that while the minimum fee would be the same for all growers, an individual county could set an additional fee based on acreage, depending on that county's costs.

McClain asked if there would be an application fee in addition to the registration fee, the reason for biannual registration, and if CDFA had data on how many farmers would likely register.

Kress responded that the law only provided for a registration fee and a renewal fee, and that it required renewal of registration every two year, and noted that CDFA did not have discretion to adjust these terms. CDFA did not have data on how many farmers would likely register, but Kress noted McClain's estimate from the prior meeting as between 250-300 applicants.

Allison Justice asked for examples of what other plant industries were paying for similar programs. Kress noted the wide variety of fee structures for programs throughout CDFA. Kress provided examples of the existing fees for the License to Sell Nursery Stock and Authorization to Sell Seeds, and noted that an annual application fee of \$500 was not outside of the typical fees for a program. Pfeiffer added that the proposed fee was similar to the application fees for industrial hemp programs in other states, such as Colorado. Schnabel added examples of fees and assessments for the Cotton Pest Control Board, Beet Curly Top Virus Control Program, and phytosanitary certificates, noting that the fees for each took quite different approaches in recovering costs.

Carlson noted that the fee structure in Colorado was a \$500 annual registration fee, plus a \$500 acreage fee, plus a testing fee. Carlson commented that \$1,000 seemed like a high fee, but that it was in line with the fees in Colorado and Nevada, and that it would be incumbent on the private sector to lobby at the county level to help keep acreage fees low.

Board Motion #3: Richard Soria moved to recommend that CDFA promulgate regulations to establish a registration and renewal fee of not less than \$1,000 per applicant to be collected by the

county agricultural commissioner, that the county board of supervisors may set a fee greater than \$1,000 during a regular meeting and adopt it pursuant to county rules, that \$1,000 per applicant would be forwarded by the commissioner to CDFA, and that CDFA would publish a list of all fees by county and notify the public of changes via the e-mail listserv. Matt McClain seconded.

Carlson asked if a schedule could be set to review the fee. Kress responded that the Board could set a schedule to review the fee structure annually and could propose a revision at any time.

Heather Podoll of Fiber Shed recommended that the Board to take a look at the fee structure with regards to small farmers, and to consider the variance on returns for growers who produce for fiber versus cannabinoids.

John Roulac asked if other states have a tiered fee system, and if the Board could consider a tiered structure to better support smaller farmers.

Kress noted that the fee structure was very different for each state. As an example, Kentucky had a \$50 application fee, but the actual registration fee was significantly higher and included a complicated fee structure. Kress was not aware of any states that set fees based on the type of production.

Carlson noted it would be within the interest of the Board to make the Program inclusive for small farmers yet responsible for everyone wanting to participate. He noted that the Board would have the flexibility to change the structure in the future as more information is available.

Roulac suggested a \$500 for famers with less than a set number of acres (i.e., less than 25 acres).

The Board further discussed what the threshold would be for a small farmer, and how to set a fair fee for all participants.

Carlson noted that while providing for the inclusion of small farmers was important, the state's and county's costs for administration and enforcement of the Program for those farmers had to be taken into consideration as well.

Gurrola noted that counties would need to determine and recover costs, but that counties could also consider reducing or exempting small growers from fees at a local level. Gurrola added that counties were already doing that for other programs, such as local certified producers for farmers' markets.

Richman recommended that fees be set to encourage cultivation by small family farmers rather than by large agricultural corporations.

Matt Butterworth expressed agreement with Gurrola's comments, and suggested that counties consider the type of production (i.e., fiber vs. cannabinoid) when considering setting fees.

Pires recommended consideration of setting fees based on the value of the product.

Robert Garren expressed his concern with discrepancies between state and federal law regarding industrial hemp.

Mellano recommended moving forward with a proposed fee, and then revisiting the fee structure and determining how to limit impacts on small growers once more information about cultivation in California is available. Carlson agreed with Mellano's recommendation.

Ayers commented that setting lower fees for some growers that could result in large workloads for the state or county could significantly impact the Program's budget and ability to perform necessary work.

Soria recommended to move forward with the motion under consideration regarding establishment of a registration fee structure as-is, and to review the fee for possible revision at a future meeting once more information is available.

The Board voted on Motion #3 as follows:

Yes: Van Butsic, Eric Carlson, Rick Gurrola, Allison Justice, Matt McClain, Valerie Mellano, Tom Pires, John Roulac, Lawrence Serbin, Richard Soria  
No: None  
Absent: David Robinson

Motion carried.

The Board reopened Motion #2 for discussion and vote, and briefly reviewed the proposal.

The Board voted on Motion #2 as follows:

Yes: Van Butsic, Eric Carlson, Rick Gurrola, Allison Justice, Matt McClain, Valerie Mellano, Tom Pires, John Roulac, Lawrence Serbin, Richard Soria  
No: None  
Absent: David Robinson

Motion carried.

## **7. Registered Laboratory Testing**

Carlson noted the significant industry-wide concern regarding THC testing due to the statutory 0.3% THC level in both state and federal law. Carlson also expressed concern with who held responsibility for sampling and testing of crops, and the significant economic impact that could result from inconsistent sampling or testing procedures.

Kress reminded the Board that FAC § 81006 required the growers to collect and submit samples for THC testing to a laboratory registered with the Federal Drug Enforcement Administration (DEA). A laboratory may obtain DEA registration in order to accept samples for testing from other DEA permit or license holders, but such registration is not utilized for general commercial testing and the list of laboratories that are registered under the DEA is not publically available. CDFA was aware of one laboratory that was registered with the DEA and also processed commercial cannabis samples separately, but CDFA was concerned about possible limited access to registered laboratories.

Soria related that he had contacted the DEA to get more information about THC testing of industrial hemp by registered labs, and was directed to contact CDFA and the commissioner for more information.



Kress noted that use of a DEA laboratory was a California statutory requirement, and that CDFA did not have discretion to make changes to that requirement. Kress added that in other states it was generally regulatory agencies that collected and processed samples, but that California law placed this requirement on the grower. The law also specified what a sample was, but did not specify a sampling rate or protocol for a given field. CDFA requested guidance from the Board on setting a sampling protocol to help ensure consistency in collection and testing.

Carlson noted that he was aware of one laboratory with DEA registration located in San Francisco, and questioned how farmers in Imperial County could transport samples to San Francisco within 24 hours to ensure accuracy in the test result. Carlson also recommended that industrial hemp samples not be tested at laboratories that processed cannabis samples due to the risk of cross contamination between samples.

Carlson also noted that most protocols required samples to be taken from the top one-third of the plant, and that some in the industry recommended using the entire plant as a sample in order to provide a complete picture of the cannabinoid content in the plant.

Roulac commented that a regulatory environment that makes compliance difficult for farmers or processors would cause severe harm to the industry.

Carlson noted that Canada exempted approved cultivars from testing requirements for fiber and grain production, and suggested that plantings using certified seed should be exempted from the THC testing requirement in California.

Kress noted that California law provided authority for the Board to limit cultivation to approved cultivars, but that it did not provide authority for an exemption from testing.

Roulac asked if the legislature was likely to look to make adjustments to bring the law more in line with the regulatory systems in Canada and other states regarding testing.

Carlson responded that members of the industry had been working to raise awareness among members of the legislature about hemp and the needs for legislation, and noted that it would take continued lobbying efforts to make the changes necessary for the industry.

Kress clarified that this lobbying effort would be undertaken by the industry and industry associations, and that CDFA and the Board did not engage in lobbying.

Serbin noted that established agricultural research institutions were exempt from the testing requirements, and asked if a commercial grower could partner with a university and thus have their entire planting be exempt from testing.

Kress responded that this question was one of the main reasons that CDFA was seeking clarity on what is an established agricultural research institution and who would qualify for the exemption.

McClain asked about the number of DEA-registered laboratories available to perform the required testing. Kress responded that the number was unknown since there was no public list available.

McClain asked if growers were prohibited from shipping samples out of state for testing. Kress responded that California law did not prohibit that activity, but that interstate shipping

requirements would fall under federal law, and that the DEA would need to be contacted to determine whether or not samples could be shipped interstate and under what conditions.

Carlson commented that he did not want to see California growers be required to obtain DEA approval just to ship samples interstate.

Carlson asked if the Board had authority to create sampling and testing protocols. Kress responded that the Board likely had the authority to establish sampling protocols in order to further specify the testing requirements found in the law, but that the Program would seek further clarification if the Board chose to move forward with such a recommendation.

Carlson asked whether the county inspector or the grower would collect the sample, and what that sample would be. Gurrola responded that for most crops, sampling protocols were set by the state in order to ensure uniformity. Mellano added that more research was necessary in order to get a repeatable and appropriate sample.

Kress reminded the Board that the law did provide a description of a sample, and noted that legislation may be required to allow use of a sampling protocol based on current research.

Carlson recommended that California and the Board set the precedent of defining a sample as coming from the entire plant rather than just the top one-third.

Roulac recommended following Canada's model for regulatory framework due to the success of their industry.

The Board further discussed Canada's hemp industry, use of approved cultivars, hemp variety research, and consideration of industrial hemp as an agronomic crop.

Carlson stated that he felt there was not enough information available yet to make a motion regarding setting a sampling or testing protocol. Van Butsic concurred, and asked if the Program could fund research to on this topic.

Kress noted that the Program might be able to fund research when funding was available, but that the Program would have to confirm this before pursuing. Kress added that some private funds for research had already been set up by the industry and may be available for this work.

Brant-Zawadzki recommended contacting George Weiblen at the University of Minnesota as a resource on this topic.

Bianchini recommended that the Board hold a workshop with members of the industry on this topic, noted that moisture content could greatly affect results, recommended that testing only be done using gas chromatography, and recommended that samples only be taken by regulatory officials.

Chris Boucher recommended pursuing a legislative change regarding the testing requirements.

David Hopkins of Fresno State University commented on the importance of chain of custody for samples.

Eve commented that he did not think it was necessary to process samples within 24 hours, as had been suggested by Carlson, agreed that the use of only approved cultivars was necessary, and recommended using the program in Nevada as an example for California.

Brant-Zawadzki recommended coordination between testing facilities and processing plants in order to help ensure that services were available to growers throughout the state.

Richman commented on the importance of the use of approved cultivars, and commented that existing laboratories would likely move quickly to fill the need for DEA registration once the demand was there.

Lane Yeako of O-biotics commented that cross contamination should not occur in an ISO/IEC 17025 accredited laboratory, noted that he had made contacts to identify existing DEA-registered laboratories in California, and noted that regulations had already been proposed for sampling and testing protocols for medical and adult-use cannabis that could be used as an example for industrial hemp.

Carlson reiterated his opinion that industrial hemp samples should not be processed at a laboratory that processes medical and adult-use cannabis samples.

Justice asked if any additional testing was required for industrial hemp besides THC content. Kress responded that California law only required THC testing, and that the Board could consider requirements for other testing in the future at its discretion.

There were no motions regarding this item.

#### **8. Brief Update on Federal Status for Industrial Hemp**

Carlson noted that the Patrick Goggin had intended to provide an update to the Board but was not able to attend the meeting.

Kress noted that Goggin had asked that the Board be presented with a copy of the proposed federal Industrial Hemp Farming Act of 2017 (H.R. 3530) (attachment). Goggin had expected changes to the Act either through changes to this bill or through proposal of a corresponding bill in the U.S. Senate.

Roulac expressed his concern regarding a clause in the Act that he said gave the right to DEA agents to enter a hemp facility, unannounced and at any time. Roulac recommended that the Board discuss that clause and how it could impact existing businesses.

Serbin commented that the Hemp Industries Association (HIA) shared Roulac's concern and was working to remove the clause from the legislation.

Richman presented the Board with a Presidential Executive Order dated April 25, 2017 regarding plant fiber and food products (attachment).

There were no motions regarding this item.

#### **9. Importation of Certified Seeds**

Kress presented a list of cultivars (attachment) prepared by Alex Mkandawire of the California Crop Improvement Association (CCIA) that he determined could meet the statutory requirements

for approved cultivars. Mkandawire had confirmed that a few of these varieties were being grown and producing certified seed in other states.

Kress noted that seeds could only be imported under a DEA permit or shipped under programs that were authorized by federal law. CDFA had concerns that the registration of commercial growers, as described by the California law, did not mirror the federal law, and thus registered California growers could be prohibited or subject to federal law enforcement when trying to import certified seed from other states. Kress added that institutions of higher education should be able to receive material shipped from those states, as well as apply for and obtain a federal permit for the importation of seeds, in accordance with both state and federal law.

McClain noted that a significant gray area was established agriculture research institutions who did not qualify as institutions of higher education under federal law. Such institutions could cultivate industrial hemp under state law without registration, but would not be compliant with federal law and thus may or may not be able to import seeds.

Carlson commented on his experiences with importing seeds under permit from the DEA.

Bianchini commented that the state of Nevada allowed the movement of seed into the industrial hemp program from unknown sources for a period of six weeks due to the lack of available certified seed in the state.

Richman noted that the DEA permit requires that the receiver to have a seed vault to securely hold the seed. Mellano noted that her team was able to meet this requirement by installing a safe at a building on campus that was large enough to hold the quantity of seed being imported.

An unidentified member of the public asked where growers would obtain seed if sufficient quantities of certified seed was not available for purchase when registration became available.

Kevin Johnson asked about receiving certified seeds from other states. Kress responded that California law allowed planting of seeds certified in other states, but that the interstate movement of seed was restricted under federal law.

There were no motions regarding this item.

#### **10. Suggestions for Additional Regulatory Concepts for Production and Enforcement**

Kress noted that there were two items in the law CDFA would be seeking advice from the Board to clarify in order to ensure uniformity: a definition of “densely planted”, and determining what would constitute adequate signage. Kress recommended including more substantial discussion on those items during a future meeting, and asked the Board what other items in the law may need clarity and additional discussion moving forward.

Serbin asked if the cultivation of hemp for CBD production would be regulated as part of this program or if it would fall under the CalCannabis Cultivation Licensing Program. Kress responded that any planting that tested below 0.3% THC would be considered industrial hemp, but that CDFA would seek guidance from the board on whether this planting would meet the requirements as defined in FAC § 81006.

Carlson noted two options to address this issue: either remove the requirement for densely planted through legislation, or to define densely planted through regulation in a way that would allow for

cannabinoid production. Either way, Carlson commented that clarification of that definition was necessary to ensure consistent enforcement.

Kress noted that CDFA and the Department of Public Health shared concerns about how to handle industrial hemp after it has been processed. If the THC levels of a product rise during processing, it was unclear as to what actions could or should be taken.

There were no motions or public comments regarding this item.

#### **11. Other State and Local Restrictions Affecting Growers**

Kress noted that there was one ordinance put into place in San Joaquin County (attachment). Kress noted that the Program would update the Board as it became aware of any additional restrictions regarding industrial hemp, and suggested that anyone aware of state or local restrictions regarding industrial hemp notify the Program so that the information could be distributed.

Kress also presented an article from the Western Plant Diagnostic Network regarding a find of crown rot of industrial hemp found in Nevada (attachment). Kress noted that there were currently no requirements regarding pests or pathogens for industrial hemp, but that the Program would continue to update the Board as any information became available.

Soria asked about what pesticides were available for use on industrial hemp. Gurrola responded that the county agricultural commissioner did not have authority to create a list of pesticides for use on cannabis or hemp. He noted that a list of general pesticides that may be used had been published by the Department of Pesticide Regulation, but that the use of any pesticide on cannabis or hemp that was not registered for use on those plants was illegal under state law.

There were no motions regarding this item.

#### **12. Public Comments**

Richman suggested that Program staff visit additional states to learn more about their industrial hemp programs.

Kristy Levings with the CDFA CalCannabis Cultivation Licensing Program provided some brief information on activities ongoing at CalCannabis.

La Vonne Peck of Native Network Consulting requested that the Board consider tribal representation as ex officio membership on the Board in the future.

Kevin Moats of Harvest-Tek invited the Board to tour their lab in Nevada, and expressed concerns with prior issues related to imported seeds.

David Hopkins noted that crown root was often caused by stagnant water, flood irrigation, or depth of planting issues, which was likely the problem in the Nevada planting mentioned earlier. Hopkins also noted that the THC content in the plant would be lowest at around 6:00am due to sugar accumulation, and that conversely THC content would be highest at around 5:00pm.

#### **13. Next Meeting/Agenda Items**

Carlson recommended holding the next meeting in mid-January 2018. A doodle poll will be sent out prior to the meeting to confirm the date.

Possible agenda items discussed included testing protocols, availability of seeds, and how growers can plant seeds.

**14. Adjournment**

Meeting adjourned by Carlson at 1:32 PM

Respectfully submitted by:

Cathy Vue  
Associate Governmental Program Analyst  
CDFA Nursery, Seed and Cotton Program



Organization Founded by the Sheriffs in 1894

## California State Sheriffs' Association

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March 21, 2013

The Honorable Cathleen Galgiani  
Chair, Senate Agriculture Committee  
1020 N Street, Room 583  
Sacramento, CA 95814

**Subject: Senate Bill 566 (Leno) CSSA – Support**

Dear Senator Galgiani:

On behalf of the California State Sheriffs' Association (CSSA), we are pleased to support SB 566, which would revise the definition of "marijuana" so the term would exclude industrial hemp, and enact specified procedures and requirements relating to growing industrial hemp and those who cultivate industrial hemp. This proposal would further require the Attorney General and the Hemp Industries Association to submit reports to the Legislature regarding the economic and law enforcement impacts of industrial hemp cultivation. Finally, unlike previous versions of this bill, this measure will only go into effect if industrial hemp is authorized under federal law.

The market for industrial hemp as an agricultural and industrial crop is growing rapidly. Farmers, policy makers and manufacturers agree this proposal will ensure the cultivation of industrial hemp by a licensed grower and transporter is rigorously regulated. The narrow definition of industrial hemp will also allow local law enforcement to concentrate on marijuana eradication efforts while allowing for lawful cultivation of industrial hemp, without creating a conflict with federal law.

For these reasons, we are pleased to support SB 566.

Sincerely,

**Aaron R. Maguire**  
Legislative Representative

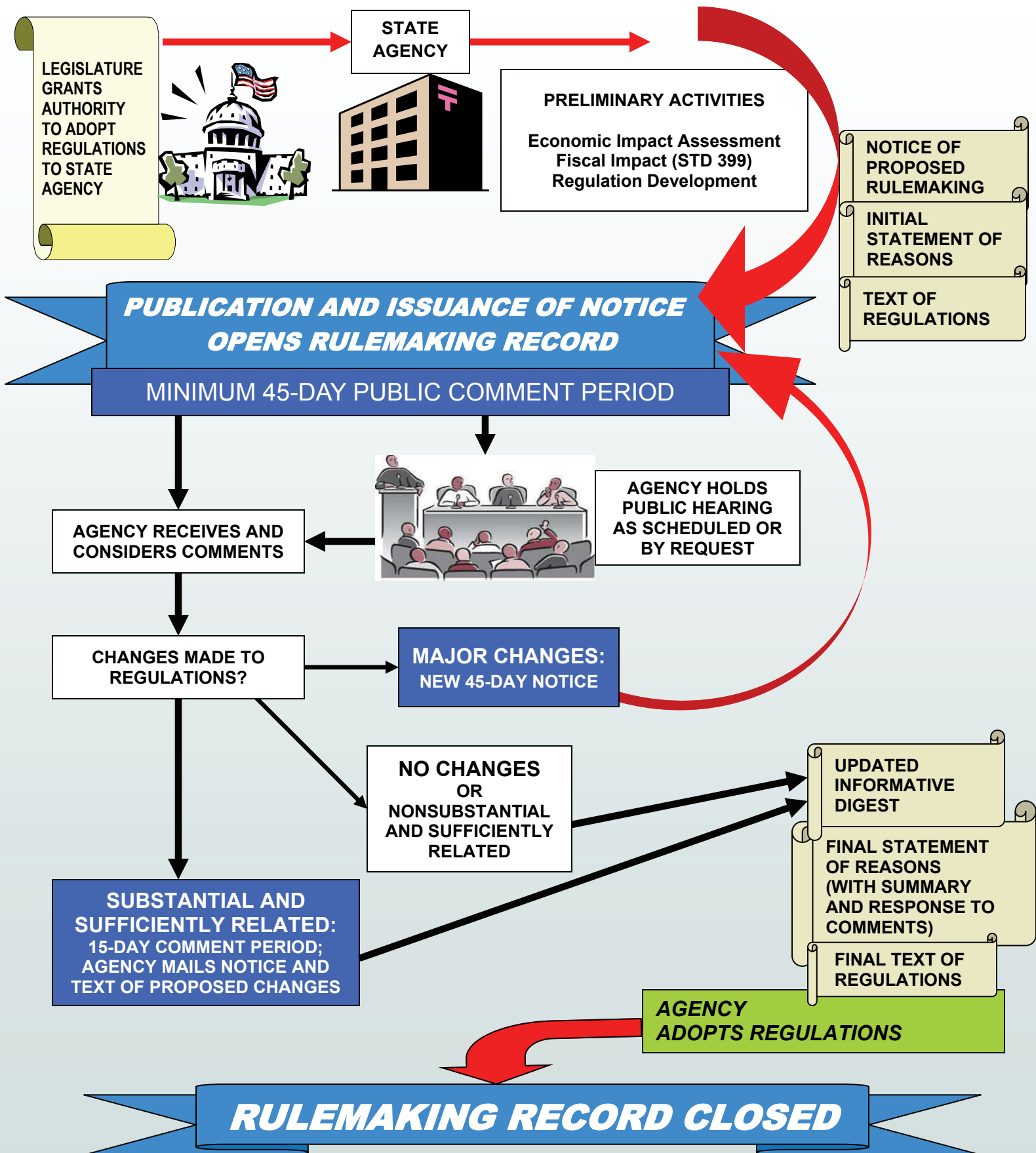
Cc: The Honorable Mark Leno, Member, California State Senate  
The Honorable Anthony Cannella, Vice-Chair, Senate Agriculture Committee

1231 I Street, Ste 200 ★ Sacramento, California 95814

P O Box 958 ★ Sacramento, California 95812

Telephone 916/375-8000 ★ Fax 916/375-8017 ★ Website [www.calsheriffs.org](http://www.calsheriffs.org) ★ Email [cssa@calsheriffs.org](mailto:cssa@calsheriffs.org)

# REGULAR RULEMAKING





# Industrial Hemp Program 2017/18 Budget Summary

	Current Approved Budget	Proposed Changes	Total Proposed Budget
Salary & Benefits	25,206	134,327	159,533
<b>TOTAL PERSONAL SERVICES</b>	<b>25,206</b>	<b>134,327</b>	<b>159,533</b>
General Expenses	100	0	100
Printing	600	0	600
Communications	100	0	100
Postage	250	0	250
Insurance-Vehicles	75	0	75
Travel In-State	3,325	0	3,325
Travel Out-of-State	2,000	0	2,000
Training	0	0	0
Facilities	800	0	800
Utilities	0	0	0
Cons & Prof	500	0	500
Atty General Charges	1,000	0	1,000
Intradeptl Charges (includes Division Costs, Executive/Administration, IT)	0	0	0
Pro Rata	0	0	0
IT Purchases	0	0	0
Equipment	100	0	100
Field Expenses/Agri & Lab Supplies	100	0	100
Vehicle Operations	2,500	0	2,500
Other Misc. Charges	0	0	0
<b>TOTAL OPER EXP/EQUIP</b>	<b>11,450</b>	<b>0</b>	<b>11,450</b>
Reimbursement 224c - Admin	0	0	0
<b>TOTAL COST RECOVERIES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL BUDGET w Personnel &amp; Benefits</b>	<b>36,656</b>	<b>134,327</b>	<b>170,983</b>

115TH CONGRESS  
1ST SESSION

# H. R. 3530

To amend the Controlled Substances Act to exclude industrial hemp from the definition of marihuana, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. COMER (for himself, Mr. GOODLATTE, Mr. POLIS, Mr. MASSIE, Mr. GRIFFITH, Mr. YOUNG of Alaska, Mr. CRAMER, Mr. BLUMENAUER, Mr. PETERSON, Mr. COHEN, Ms. BONAMICI, Ms. GABBARD, Mr. DEFazio, Mr. SCHRADER, Mr. PERLMUTTER, and Mr. BARR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Controlled Substances Act to exclude industrial hemp from the definition of marihuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Industrial Hemp  
5 Farming Act of 2017”.

1 **SEC. 2. FINDING.**

2 The Congress finds that industrial hemp is a non-  
3 narcotic agricultural commodity that is used in tens of  
4 thousands of legal and legitimate products.

5 **SEC. 3. EXCLUSION OF INDUSTRIAL HEMP FROM DEFINI-**  
6 **TION OF MARIHUANA.**

7 Section 102 of the Controlled Substances Act (21  
8 U.S.C. 802) is amended—

9 (1) in paragraph (16)—

10 (A) by striking “(16) The” and inserting  
11 “(16)(A) The”; and

12 (B) by adding at the end the following:

13 “(B) The term ‘marihuana’ does not include in-  
14 dustrial hemp or research hemp.”; and

15 (2) by adding at the end the following:

16 “(57) The term ‘industrial hemp’ means the  
17 plant *Cannabis sativa* L. and any part or derivative  
18 of such plant (including viable seeds), whether grow-  
19 ing or not—

20 “(A) no part of which has a delta-9  
21 tetrahydrocannabinol concentration of more  
22 than 0.3 percent on a dry weight basis;

23 “(B) the production, storage, distribution,  
24 or use of which is lawful under the law of the  
25 State or of the tribe having jurisdiction over the  
26 area of Indian country (as defined in section

1 1151 of title 18, United States Code) such con-  
2 duct occurs; and

3 “(C) with regard to the production, stor-  
4 age, distribution, or use of which the State in  
5 which such conduct occurs or the tribe having  
6 jurisdiction over the area of Indian country (as  
7 defined in section 1151 of title 18, United  
8 States Code) in which such conduct occurs sub-  
9 mits to the Attorney General, upon the Attor-  
10 ney General’s request—

11 “(i) the name of the person;

12 “(ii) the period of time for which such  
13 conduct is authorized; and

14 “(iii) information pertaining to each  
15 location, including the specific latitude and  
16 longitude, where the conduct is authorized  
17 to occur.

18 The term does not include any such plant, or  
19 part or derivative thereof, that has been altered  
20 so as to increase the delta-9  
21 tetrahydrocannabinol concentration above the  
22 limits specified in subparagraph (A).

23 “(58) The term ‘research hemp’ means the  
24 plant *Cannabis sativa* L. and any part or derivative  
25 of such plant (including viable seeds), whether grow-

1 ing or not, that would be industrial hemp except  
2 that such, plant, part, or derivative has a delta-9  
3 tetrahydrocannabinol concentration of more than 0.3  
4 percent on a dry weight basis but less than 0.6 per-  
5 cent on a dry weight basis, and that—

6 “(A) is used in scientific, medical or indus-  
7 trial research conducted by an institution of  
8 higher education (as defined in section 101 of  
9 the Higher Education Act of 1965 (20 U.S.C.  
10 1001)) or a State department of agriculture;  
11 and

12 “(B) may not be introduced into com-  
13 merce.”.

14 **SEC. 4. ADMINISTRATIVE INSPECTIONS.**

15 Section 510 of the Controlled Substances Act (21  
16 U.S.C. 880) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking “and” at  
19 the end;

20 (B) in paragraph (2), by striking the pe-  
21 riod at the end and inserting “; and”; and

22 (C) by inserting after paragraph (2) the  
23 following:

24 “(3) places where industrial hemp or research  
25 hemp is produced, stored, distributed, or used.”.

1           (2) in subsection (d), by adding at the end the  
2 following:

3           “(5) Any land on which industrial hemp or re-  
4 search hemp is produced, stored, distributed, or used  
5 shall be subject to inspection, in accordance with the  
6 provisions of this section, for compliance with the  
7 provisions of this Act.”.

8 **SEC. 5. RULE OF CONSTRUCTION.**

9           Nothing in this Act, or the amendments made by this  
10 Act, may be construed—

11           (1) to alter the provisions of the Federal Food,  
12 Drug, and Cosmetic Act that pertain to an unap-  
13 proved, adulterated, or misbranded drug or food; or

14           (2) to require a retailer or end user of a fin-  
15 ished product that contains industrial hemp to com-  
16 ply with the reporting requirement under section  
17 102(57)(C) of the Controlled Substances Act.

18 **SEC. 6. NO ADDITIONAL FUNDS AUTHORIZED.**

19           No additional funds are authorized to carry out the  
20 requirements of this Act and the amendments made by  
21 this Act. Such requirements shall be carried out using  
22 amounts otherwise authorized.

○



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**The White House**

Office of the Press Secretary

For Immediate Release

April 25, 2017

# Presidential Executive Order on Promoting Agriculture and Rural Prosperity in America

EXECUTIVE ORDER

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## PROMOTING AGRICULTURE AND RURAL PROSPERITY IN AMERICA

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure the informed exercise of regulatory authority that affects agriculture and rural communities, it is hereby ordered as follows:

Section 1. Policy. A reliable, safe, and affordable food, fiber, and forestry supply is critical to America's national security, stability, and prosperity. It is in the national interest to promote American agriculture and protect the rural communities where food, fiber, forestry, and many of our renewable fuels are cultivated. It is further in the national interest to ensure that regulatory burdens do not unnecessarily encumber agricultural production, harm rural communities, constrain economic growth, hamper job creation, or increase the cost of food for Americans and our customers around the world.

Sec. 2. Establishment of the Interagency Task Force on Agriculture and Rural Prosperity. There is hereby established the Interagency Task Force on Agriculture and Rural Prosperity (Task Force). The Department of Agriculture shall provide administrative support and funding for the Task Force to the extent permitted by law and within existing appropriations.

Sec. 3. Membership. (a) The Secretary of Agriculture shall serve as Chair of the Task Force, which shall also include:

- (i) the Secretary of the Treasury;
- (ii) the Secretary of Defense;
- (iii) the Attorney General;
- (iv) the Secretary of the Interior;
- (v) the Secretary of Commerce;
- (vi) the Secretary of Labor;
- (vii) the Secretary of Health and Human Services;



- (viii) the Secretary of Transportation;
- (ix) the Secretary of Energy;
- (x) the Secretary of Education;
- (xi) the Administrator of the Environmental Protection Agency;
- (xii) the Chairman of the Federal Communications Commission;
- (xiii) the Director of the Office of Management and Budget;
- (xiv) the Director of the Office of Science and Technology Policy;
- (xv) the Director of the Office of National Drug Control Policy;
- (xvi) the Chairman of the Council of Economic Advisers;
- (xvii) the Assistant to the President for Domestic Policy;
- (xviii) the Assistant to the President for Economic Policy;
- (xix) the Administrator of the Small Business Administration;
- (xx) the United States Trade Representative;
- (xxi) the Director of the National Science Foundation; and
- (xxii) the heads of such other executive departments, agencies, and offices as the President or the Secretary of Agriculture may, from time to time, designate.

(b) A member of the Task Force may designate a senior level official who is a full-time officer or employee of the member's department, agency, or office to perform the member's functions on the Task Force.

Sec. 4. Purpose and Functions of the Task Force. (a) The Task Force shall identify legislative, regulatory, and policy changes to promote in rural America agriculture, economic development, job growth, infrastructure improvements, technological innovation, energy security, and quality of life, including changes that:

- (i) remove barriers to economic prosperity and quality of life in rural America;
- (ii) advance the adoption of innovations and technology for agricultural production and long-term, sustainable rural development;
- (iii) strengthen and expand educational opportunities for students in rural communities, particularly in agricultural education, science, technology, engineering, and mathematics;
- (iv) empower the State, local, and tribal agencies that implement rural economic development, agricultural, and environmental programs to tailor those programs to relevant regional circumstances;
- (v) respect the unique circumstances of small businesses that serve rural communities and the unique business structures and regional diversity of farms and ranches;
- (vi) require executive departments and agencies to rely upon the best available science when reviewing or approving crop protection tools;
- (vii) ensure access to a reliable workforce and increase employment opportunities in agriculture-related and rural-focused businesses;
- (viii) promote the preservation of family farms and other agribusiness operations as they are passed from one generation to the next, including changes to the estate tax and the tax valuation of family or cooperatively held businesses;
- (ix) ensure that water users' private property rights are not encumbered when they attempt to secure permits to operate on public lands;
- (x) improve food safety and ensure that regulations and policies implementing Federal food safety laws are based on science and account for the unique circumstances of farms and ranches;
- (xi) encourage the production, export, and use of domestically produced agricultural products;
- (xii) further the Nation's energy security by advancing traditional and renewable energy production in the rural landscape; and

(xiii) address hurdles associated with access to resources on public lands for the rural communities that rely on cattle grazing, timber harvests, mining, recreation, and other multiple uses.

(b) The Task Force shall, in coordination with the Deputy Assistant to the President for Intergovernmental Affairs, provide State, local, and tribal officials -- and farmers, ranchers, foresters, and other rural stakeholders -- with an opportunity to suggest to the Task Force legislative, regulatory, and policy changes.

(c) The Task Force shall coordinate its efforts with other reviews of regulations or policy, including those conducted pursuant to Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13778 of February 28, 2017 (Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule), and Executive Order 13783 of March 28, 2017 (Promoting Energy Independence and Economic Growth).

Sec. 5. Report. Within 180 days of the date of this order, the Secretary of Agriculture, in coordination with the other members of the Task Force, shall submit a report to the President, through the Assistant to the President for Economic Policy and the Assistant to the President for Domestic Policy, recommending the legislative, regulatory, or policy changes identified pursuant to section 4 of this order that the Task Force considers appropriate. The Secretary of Agriculture shall provide a copy of the final report to each member of the Task Force.

Sec. 6. Revocation. Executive Order 13575 of June 9, 2011 (Establishment of the White House Rural Council), is hereby revoked.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,  
April 25, 2017.



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**List of Approved Industrial Hemp Varieties for California**

<b><i>Variety Name</i></b>	<b><i>Maintainer Country</i></b>	<b><i>Certification Scheme</i></b>
Alyssa	Canada	AOSCA <sup>1</sup>
Anka	Canada	AOSCA
Canda	Canada	AOSCA
CanMa	Canada	AOSCA
Carmagnola	Italy	AOSCA
Carmen	Canada	AOSCA
CFX-1	Canada	AOSCA
CFX-2	Canada	AOSCA
Crag	Canada	AOSCA
CRS-1	Canada	AOSCA
CS	Italy	AOSCA
Delores	Canada	AOSCA
Deni	Canada	AOSCA
ESTA-1	Canada	AOSCA
Fasamo	Germany	AOSCA
Fedrina 74	France	AOSCA
Felina 34	France	AOSCA
Ferimon	France	AOSCA
Fibranova	Italy	AOSCA
Fibriko	Hungary	AOSCA
Fibrimon 24	France	AOSCA
Fibrimon 56	France	AOSCA
Georgina	Canada	AOSCA
GranMa	Canada	AOSCA
Grandi	Canada	AOSCA
Joey	Canada	AOSCA
Jutta	Canada	AOSCA
Katani	Canada	AOSCA
Kompolti	Hungary	AOSCA
Kompolti Hibrid TC	Hungary	AOSCA
Kompolti Sargaszaru	Hungary	AOSCA
Lovrin 110	Romania	AOSCA
Petera	Canada	AOSCA
Picolo	Canada	AOSCA
Silesia	Canada	AOSCA
UC-RGM	Canada	AOSCA
Uniko B	Hungary	AOSCA
USO 14	Canada (Ukraine)	AOSCA
USO 31	Canada (Ukraine)	AOSCA
Victoria	Canada	AOSCA

<b><i>Variety Name</i></b>	<b><i>Maintainer Country</i></b>	<b><i>Certification Scheme</i></b>
<b>X-59 (Hemp Nut)</b>	<b>Canada</b>	<b>AOSCA</b>
<b>Yvonne</b>	<b>Canada</b>	<b>AOSCA</b>
<b>Zolotonosha 11</b>	<b>Canada (Ukraine)</b>	<b>AOSCA</b>
<b>Zolotonosha 15</b>	<b>Canada (Ukraine)</b>	<b>AOSCA</b>

Notes:

1. AOSCA = Association of Official Seed Certification Agencies.

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN,  
STATE OF CALIFORNIA

ORDINANCE NO.4497

**AN INTERIM URGENCY ORDINANCE DECLARING A TEMPORARY MORATORIUM  
ON THE CULTIVATION OF INDUSTRIAL HEMP BY “ESTABLISHED  
AGRICULTURAL RESEARCH INSTITUTIONS” WITHIN THE UNINCORPORATED  
AREAS OF SAN JOAQUIN COUNTY**

The Board of Supervisors of the County of San Joaquin ordains as follows:

**SECTION 1. Purpose and Authority.** The purpose of this urgency ordinance is to establish a temporary moratorium on the cultivation of industrial hemp by “Established Agricultural Research Institutions,” as defined by California Food and Agricultural Code Section 8100(c), while County staff determines the impact of such unregulated cultivation and reasonable regulations to mitigate such impacts. This urgency ordinance is adopted pursuant to California Constitution article 11, section 7, Government Code sections 65800, *et seq.*, particularly section 65858, and other applicable law.

**SECTION 2. Findings.** The Board of Supervisors of the County of San Joaquin makes the following findings in support of the immediate adoption and application of this urgency ordinance.

- A. Under Section 7606 of the Agricultural Act of 2014 (“The U.S. Farm Bill”), “Notwithstanding the Controlled Substance Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a State department of agriculture may grow or cultivate industrial hemp if: (1) the industrial hemp 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 industrial hemp 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.”
- B. Division 24. Industrial Hemp [8100-81010] of the State of California Food and Agricultural Code (hereafter “FAC”) allows for the growing and cultivation of industrial hemp.
- C. On January 1, 2017, Division 24, Industrial Hemp [8100-81010] of the FAC became operative.
- D. The cultivation of industrial hemp for commercial purposes as defined under FAC Division 24 is prohibited within the State of California and San Joaquin County until the Industrial Hemp Advisory Board has developed and implemented the requisite industrial hemp seed law, regulations, or enforcement mechanisms.

- E. The Industrial Hemp Advisory Board is expected to the implement requisite regulations allowing the cultivation of industrial hemp for commercial purposes in approximately 2019.
- F. Despite the prohibition on the cultivation of industrial hemp for commercial purposes, FAC Division 24 exempts cultivation by an “Established Agricultural Research Institution” from some of the regulatory requirements enumerated therein.
- G. An “Established Agricultural Research Institution” is defined under FAC Division 24 as: “(1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or (2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.”
- H. Industrial hemp is defined under FAC Division 24 and Health and Safety Code Section 11018.5 as “a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent (.3%) tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.”
- I. “Cannabis” is defined under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) codified as Business and Profession’s Code Section 26001 as “all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin... “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.
- J. Despite the different definitions, due to the fact that industrial hemp and cannabis are derivatives of the same plant, *Cannabis sativa* L., the appearance of industrial hemp and cannabis are indistinguishable. Absent a lab performed chemical analysis for tetrahydrocannabinol (THC) content, the two plants cannot be distinguished.
- K. Division 24 of the FAC, allows an “Established Agricultural Research Institution” to cultivate or possess industrial hemp with a greater than .3% THC level, causing such plant to no longer conform to the legal definition of industrial hemp, thereby resulting in such “research” plants constituting cannabis.



- L. The definition of “Established Agricultural Research Institution” as provided above is vague and neither the Legislature nor the Industrial Hemp Advisory Board have provided guidelines on how the County can establish whether a cultivator claiming to be an “Established Agricultural Research Institution” is legitimate or that their cultivation constitutes “agricultural or academic research.” Without clear guidelines, the ability and likelihood that cultivators exploit the “Establish Agricultural Research Institution” exemption to grow industrial hemp with greater than .3% THC is great.
- M. At this time, San Joaquin County Ordinance Code Division 10, Chapter 1, prohibits “Commercial Cannabis Activity,” which includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of cannabis or cannabis products as provided in the Medical Cannabis Regulation and Safety Act (MCRSA) or the Adult Use of Marijuana Act (AUMA), except possession of medical cannabis by qualified patient or primary caregiver and adult use described in Health and Safety Code section 11362.1(a)(3) inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.
- N. Due to the fact that industrial hemp and cannabis are indistinguishable, the cultivation of industrial hemp by an “Establish Agricultural Research Institution” prior to the adoption of reasonable regulations poses similar threats to the public health, safety or welfare as the cultivation of cannabis.
- O. The cultivation of industrial hemp by an “Established Agricultural Research Institution” prior to the adoption of reasonable regulations will create an increased likelihood of criminal activity.
- P. The cultivation of industrial hemp by an “Established Agricultural Research Institution” prior to the adoption of reasonable regulations will attract crime and associated violence, including without limitation, theft, robberies, illegal firearms, shootings and homicides.
- Q. The San Joaquin County Sheriff’s Office will be forced to investigate each and every industrial hemp grow conducted by an “Established Agricultural Research Institution” prior to the adoption of reasonable regulations to ensure that the grow is not cannabis. Investigations of industrial hemp grows are time consuming, labor intensive, and potentially dangerous.
- R. Currently the State of California has not yet identified, nor approved seed sources for industrial hemp. Unregulated seed sources can be infested with exotic weed seed or carry plant diseases. Once exotic weeds or plant diseases are established they are difficult and costly to eradicate. Soil borne diseases, once established can result in quarantines that restrict plant movement as well as crop rotations.

- S. Industrial hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move into other nearby crops.
- T. There are no requirements for pesticide use reporting or testing for industrial hemp when cultivated by an “Established Agricultural Research Institution” if pesticides on the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 25(b) list are used. In addition, “Established Agricultural Research Institutions” may be using chemicals or pesticides that are extremely toxic to people and wildlife and which may pollute soil, ground water, and/or nearby water sources.
- U. If cloned hemp plants are used for experimentation they are exempt from nursery standards at this time and may not be inspected for plant cleanliness standards leaving them susceptible to insect and disease infection.
- V. Presently, there are no movement restrictions on hemp plants, including the industrial hemp plants that contain THC levels greater than .3%.
- W. Industrial hemp and cannabis are not compatible crops. Thus, if the Board elects to pursue a particular option with respect to the outdoor cultivation of cannabis, the existence of industrial hemp grows as maintained by “Established Agricultural Research Institutions” may preclude the Board from executing desirable projects and/or development plans.
- X. At this time, there are no approved testing labs to perform the chemical analysis needed to determine the THC levels in hemp plants. Thus, presenting challenges for law enforcement when distinguishing between industrial hemp and cannabis.
- Y. The cultivation of industrial hemp by an “Established Agricultural Research Institutions” prior to the adoption of reasonable regulations is harmful to the welfare of residents, creates a nuisance, and threatens the safety and land of nearby property owners.
- Z. There is an urgent need for the Agricultural Commissioner, Sheriff’s Office, and County Counsel to assess the impacts of industrial hemp grown by “Established Agricultural Research Institutions” and to explore reasonable regulatory options relating thereto.
- AA. The allowance of cultivation of industrial hemp by “Established Agricultural Research Institutions,” as defined by FAC Section 8100(c), prior to the adoption of reasonable regulations, creates an urgent and immediate threat to the public health, safety or welfare of the citizens and existing agriculture in San Joaquin County.
- BB. San Joaquin County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, in preventing the establishment

of nuisances, while also allowing the cultivation of industrial hemp under FAC Division 24 by legitimate “Established Agricultural Research Institutions” for legitimate research purposes.

- CC. This ordinance complies with State law and imposes reasonable regulations that the Board of Supervisors concludes are necessary to protect the public safety, health and welfare of residents and business within the County.

**SECTION 3. Declaration of Urgency.** Based on the findings set forth in Section 2 hereof, this ordinance is declared to be an urgency ordinance that shall be effective immediately after it is adopted by the Board of Supervisors.

**SECTION 5. Severability.** If any part or provision of this ordinance, or the application to any person or circumstance is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

**SECTION 6. Exempt from CEQA.** The Board of Supervisors finds that the interim urgency ordinance is exempt from CEQA because it merely preserves the status quo and temporarily prohibits a specific use, the cultivation of industrial hemp by “Established Agricultural Research Institutions.” Therefore, it can be seen with certainty that the interim urgency ordinance will not have a significant effect on the environment. Thus, the interim urgency ordinance satisfies the “common sense exemption.”

**SECTION 7. Effective Date.** This urgency interim ordinance shall become effective immediately after it is adopted by the Board of Supervisors and shall remain in effect for 45 days from its date of adoption and may be extended in accordance with Government Code Section 65858.

During the term of this interim moratorium, no person or entity shall grow industrial hemp for any purposes within the unincorporated areas of San Joaquin County. As set forth above under Section 2, the cultivation of industrial hemp for commercial purposes is currently prohibited by the State of California. Additionally, during this interim moratorium, “Established Agricultural Research Institutions” will similarly be prohibited from cultivating industrial hemp for agricultural or academic research purposes. Cultivation in violation of such prohibition constitutes a nuisance.

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PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on this 26<sup>th</sup> of September 2017 to wit:

AYES: **Villapudua, Miller, Patti, Elliott, Winn**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

**Charles Winn**

CHARLES WINN, CHAIR  
Board of Supervisors  
County of San Joaquin  
State of California

ATTEST: MIMI DUZENSKI  
Clerk of the Board of Supervisors  
County of San Joaquin  
State of California

BY: **Mimi Duzenski**

## ***Pythium aphanidermatum* Crown Rot of Industrial Hemp**

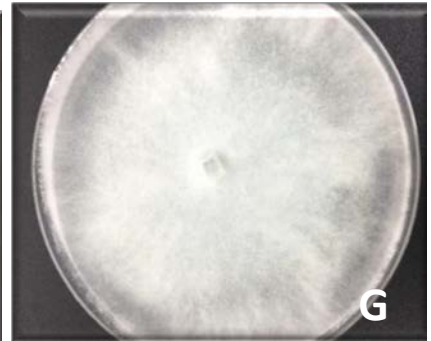
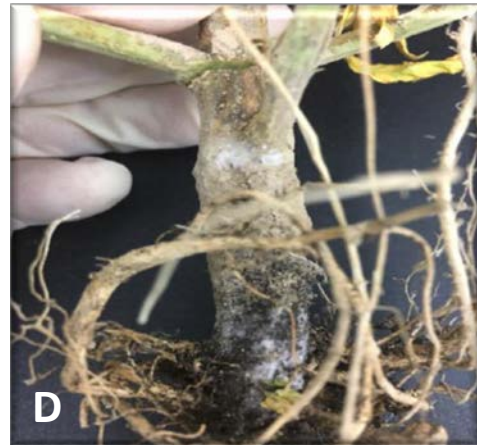
**By Jennifer Schoener, Russ Wilhelm, and Shouhua Wang**

Nevada Department of Agriculture Plant Pathology Laboratory

Cultivation of industrial hemp (*Cannabis sativa* L.) was first approved in 2014 for the purpose of research and development. The Federal Farm Bill Section 7606 authorizes state agencies to conduct pilot trials on the crop to assess crop viability for the creation of an industry in prospective states. In Nevada, the Department of Agriculture authorizes the production of hemp crops for research purposes. The acreage of hemp production in Nevada is relatively small in comparison to the acreage in other states. However, plant diseases associated with hemp crops have been occurring in Nevada in recent years. In 2016, the Nevada Department of Agriculture Plant Pathology Lab detected Fusarium root rot and sudden death disease from an industrial hemp crop, and Fusarium wilt from medical marijuana plants. Here we describe a newly detected hemp disease: [\*Pythium aphanidermatum\* crown rot](#).

*Pythium aphanidermatum* crown rot occurred in a commercial hemp field, with approximately 5-10 percent of plants affected. Infected plants were noticed by leaf yellowing, curling, necrosis, and the eventual death of entire plants (see next page for images) (Fig A). White-colored mold (*Pythium* mycelium) growth on the surface of the crown area was frequently observed when the plant was pulled from the ground (Fig D). Close examination of the stalk revealed extensive water-soaked lesions and cankers around the crown and basal stalk regions (Fig C). With disease progression, the majority of stalks became completely necrotic or rotted (Fig F). Some affected plants had mild root rot. In the early stage of the disease, only mild internal discoloration of the basal stalk tissue was observed (Fig B). In later stages, cankers spread from the crown area to lower branched stems (Fig E). Affected tissue plated on [potato dextrose agar](#) (PDA) medium amended with streptomycin did not yield growth of any pathogens. On selective [PARP](#) medium, a fast-growing *Pythium* was obtained from all pieces of stem tissue plated. This isolate grew into a full plate (100mm diameter) on PDA medium within 24 hours at 22 °C in the dark (Fig G), and produced [oogonia](#), [antheridia](#), and [sporangia](#) on [corn meal agar](#) (CMA) medium. Based on both morphology and the DNA sequence of the [ITS](#) region of [rDNA](#), the isolate was identified as *P. aphanidermatum*. This disease can be detected using [Agdia's Phytophthora immunoStrip](#) as it cross reacts with *Pythium aphanidermatum*.

Hemp crown and root rot caused by *Pythium aphanidermatum* was recently reported in Indiana in June, 2017 (<https://doi.org/10.1094/PDIS-09-16-1249-PDN>). It was found in a small research plot where hemp seeds were planted. The disease described here occurred in a commercial field during the middle of the growth term, affecting a large number of plants. The disease appears to be more aggressive on crown and stem tissue, even though root rot was noticed on some plants. The disease was prevalent when plants were grown under plastic mulch film. Removal of mulch and reduction of soil moisture appeared to reduce the incidence of disease temporarily, but it did not stop the disease development in plants that had been infected.



**Hemp crown rot caused by *Pythium aphanidermatum*.** A. Yellow leaves initially noticed in affected plants. B. Mild internal discoloration in the basal stalk tissue. C. Extensive rot on crown and lower stalk. D. *Pythium* mycelium growth on the surface of stalk. E. Canker and rot extended into lower branched stems. F. Extensive internal tissue rot of stalk. G. *Pythium aphanidermatum* colony on PDA medium after 24 hours at 22 °C.