

HEMP & MARIJUANA RESEARCH FREQUENTLY ASKED QUESTIONS (FAQs) & GUIDELINES

(Revised March 2016)

Office of the General Counsel (OGC) & the Office of the Vice President for Research (OVPR)

PREAMBLE: Within the Controlled Substances Act (CSA), there is no current legal delineation between marijuana and hemp – it all falls within the CSA definition of *Cannabis sativa*. That said, the Federal Agriculture Act of 2014 (the “Farm Bill”) did contain language providing for the cultivation of “industrial hemp” for research purposes by universities in states that allow such cultivation.

The purpose of this document is to provide guidance and direction to CSU administrators, researchers, and employees, as well as communication to the greater (public) community by providing the legal position of the university in this arena, and the legal framework for hemp and marijuana research on campus as indicated below. For any additional questions not answered below, please contact Linda Schutjer, Senior Legal Counsel for the Board of Governors of the Colorado State University System, at Linda.Schutjer@colostate.edu or (970) 491-6270, or Mark Wdowik, AVP for Research & Industry Partnerships, OVPR, at (970) 492-4519, or Mark.Wdowik@colostate.edu.

FAQs:

HEMP RESEARCH:

1. *Are researchers currently performing hemp research at CSU?* Yes, initial hemp variety trials were initiated in 2015, with additional cultivation studies anticipated in 2016. Additionally, CSU has several Master Research & Development Agreements (MRDAs) in place with public and private corporations that have sponsored analytical service work, as well as animal health and engineering studies.
2. *What hemp-based research can be performed at CSU?* Research can be conducted without a DEA Schedule I for growth, cultivation, and market analyses (i.e. economic/agronomics) of industrial hemp per the Farm Bill. CSU researchers may also perform research on any applications of hemp using materials falling below the 0.3% THC limit, including but not limited to: agriculture sciences, engineering, analytical testing, DNA/genomics testing, behavioral sciences, sociology/psychology, nutrition, and human and animal health.
3. *Are there steps I have to take before engaging in research using actual hemp or hemp derived materials?* As research that involves the actual possession of hemp or hemp derived materials is still relatively new to our university, please contact Mark Wdowik or Linda Schutjer (contact information is provided at the end of this document) before undertaking such research. They can alert you to any issues that may exist. This will also allow CSU to keep track of hemp research being conducted at CSU for our own analysis as well as to respond to frequent inquiries from as there are frequently inquiries from elected officials and others about research of this nature.
4. *Are CSU researchers permitted to research marijuana, and marijuana-derived products?* See below section on marijuana.

5. *What is "Industrial Hemp?"* Industrial hemp is defined by the state of Colorado and the Farm Bill as the plant *Cannabis sativa L.* and any part of such plant with an average delta-9 tetrahydrocannabinol (THC) concentration of 0.3 percent or less, on a dry weight basis.
6. *Does the DEA address hemp any differently than marijuana?* The DEA does not distinguish hemp from marijuana, and all cannabis is considered a Schedule I controlled substance at the present time. That said, given the differentiation in the Farm Bill, the DEA has acknowledged that states like Colorado can establish processes to foster hemp research, production, processing and development of hemp products.
7. *Who can perform research on Industrial Hemp?* Universities and State departments of agriculture in states such as Colorado that have laws in place allowing such research are permitted by the federal government to perform research. 'State department of agriculture' means the agency, commission, or department of a State government responsible for agriculture within the State.
8. *Who can grow hemp in Colorado?* Currently, anyone can grow/cultivate hemp in Colorado, provided they have registered for such activity through, and paid the appropriate fees to, the Colorado Department of Agriculture (CDA).
9. *Can CSU researchers and/or extension agents provide advice and/or assistance to non-university hemp growers inside (and external to) the state of Colorado?* CSU extension agents and faculty may provide advice to Colorado farmers cultivating hemp under the CDA registration program; however, CSU extension agents and faculty may NOT assist cultivators of marijuana, or any entity or individual growing hemp outside of the CDA registration program. Furthermore, extension agents are prohibited from physically visiting hemp facilities/fields not owned by the university as part of their CSU employment, as they risk potential arrest by the DEA per guidance provided by the DEA to CSU. Note that Federal legislation has defunded DEA enforcement actions against hemp growers who are otherwise in compliance with State law. That said, it is still suggested that CSU employees avoid going to non-CSU hemp facilities/fields.
10. *Will CSU be providing hemp seed certification services to the CDA for Colorado farmers cultivating hemp under the CDA registration program?* Yes, CSU has defined a hemp seed certification program which emulates similar seed certification programs in other crops, such as wheat. This program will begin in 2016, and will follow CSGA & CSIA guidelines for seed certification. For additional information, please see Tom Holtzer or Rick Novak.
11. *Can CSU researchers perform hemp research in a paid or unpaid sabbatical situation in a foreign country whose laws permit industrial hemp research in any capacity?* Yes.
12. *Can CSU researchers use non-CSU subcontractors to grow hemp for research purposes?* Typically, this would not be allowed under the Farm Bill; however, the DEA has represented that if a hemp grower is properly registered with the CDA and otherwise in compliance with the CDA requirements, they will be considered as working under the CDA's authorization and will not face criminal prosecution. Another exception is use of contracted employees to perform the seed certification processes described in #10 above.
13. *Can CSU researchers obtain hemp products from third parties for research or analytical service purposes?* Yes, hemp materials and products, other than viable seeds, that contain a THC concentration of less than 0.3% on a dry weight basis are considered "non-psychoactive hemp," are not subject to the CSA, and fall under the Final Rule instead. Thus, a researcher is permitted to receive and perform research on such materials and products from third parties.
14. *Can a CSU grower obtain viable hemp seed from any source?* No. At this time, viable hemp seed should be obtained from the Colorado Department of Agriculture (CDA) under its import license with the DEA. It would appear that this limitation is loosening and so if there is a desire to obtain seed other than through the CDA, this should be discussed with [Mark/Linda?].

15. *Can CSU researchers perform market/agronomic studies or literature searches about hemp under an externally funded sponsored project?* Yes.
 16. *Can CSU researchers perform hemp research funded by industry?* Yes; however, CSU cannot accept funding arising out of the marijuana industry due to Federal banking regulations.
 17. *If I perform research on hemp or hemp products, am I free to provide those results to the sponsor?* Intellectual assets, including publications, knowledge and licensed rights to resulting intellectual property, may always be provided as is standard operating procedure for research universities. Hemp and associated materials, other than viable seed at this time, may be provided to the sponsor. (See Answer to Question 14 above).
 18. *Can CSU license intellectual property rights resulting from hemp research?* Yes, see #16 above.
 19. *Can a CSU researcher who maintains a DEA Schedule I permit handle hemp materials falling under the Final Rule and/or the Farm Bill in the same facility?* Yes, provided that all Schedule I rules and protocols are followed for those materials handled in such lab categorized as a Schedule I controlled substance.
 20. *Is CSU actively seeking legislative relief from the current definitions under the DEA's Schedule I controlled substance?* Yes, CSU is working with its federal and state legislators (and other universities) to seek alignment of the DEA mandates with the Farm Bill, including options of pulling hemp out of the definition of a Schedule I controlled substance, or redefining marijuana to be anything over 0.3% THC for purposes of a Schedule I controlled substance.
 21. *Has CSU formed a joint research institute with the University of Colorado?* Yes, CSU has developed a framework for a joint hemp research institute now called the Colorado Partnership for Hemp Research (CPHR), to legally, jointly perform hemp research and support graduate student engagement in such research. CSU is also exploring adding CSU Pueblo to this effort due to CSU Pueblo's expanded research capabilities in this arena, sources of funding from new regional tax programs, and a desire to more closely collaborate with our sister university.
 22. *How should CSU researchers dispose of unwanted hemp materials?* Currently, the only process for destruction of materials is burial/composting. For more information, please contact John McKay at John.McKay@colostate.edu or (970) 491-5730.
 23. *Who is the primary Point of Contact (POC) for external relations issues and requests related to hemp and marijuana?* Mike Hooker, Director of External Relations, who can be reached at Mike.Hooker@Colostate.edu or (970) 491-1545.
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MARIJUANA RESEARCH:

1. *Can CSU researchers perform marijuana research?* Yes, but such research must be performed only after obtaining a DEA Schedule I registration of a controlled substance.
2. *Can CSU researchers provide marijuana samples, extracts, derivatives, or DNA materials to other labs at CSU or entities external to the university?* No, unless such transfer occurs to another Schedule I holder, and is otherwise permissible under state and federal rules.
3. *How can a CSU researcher apply for Schedule I registration?* Individual PIs may register with the DEA for a Schedule I controlled substance by following the CSU procedures established through EHS found online at <http://www.ehs.colostate.edu/WControlledSub/Home.aspx> (see Chris Giglio for assistance at Chris.Giglio@Colostate.edu or (970) 491-4830).
4. *How long does it take to obtain DEA approval for a Schedule I controlled substance?* According to reports from CU and other institutions, the approval process is a lengthy process, sometimes

requiring six to 12 months in total. CSU researchers interested in perform marijuana research should apply as soon as possible for a Schedule I due to this time delay in approval. Grants awarded for marijuana research will be declined if the Schedule I is not in place at time of award.

5. *Can CSU researchers perform research related to marijuana that does not require the handling of marijuana material?* Yes, research or analysis on data, including economic analyses, human and animal clinical trials, and literature searches are allowable without a Schedule I where marijuana does not come into the possession of the researcher.
6. *Can CSU accept philanthropic or research funding from the marijuana industry?* No, CSU cannot accept any forms of funding arising out of the marijuana industry due to Federal banking regulations.

For additional questions not covered by this set of FAQs, please see:

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