



Problem Statement: Current federal law prohibits the use of industrial hemp (IH) derivatives other than those produced from seed to be added to food. Colorado Revised Statutes (C.R.S.), §35-61-101(7), defines industrial hemp as:

“... a plant of the genus cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis.”

State food laws mirror federal laws and while Colorado law allows for the production of IH, the use of the stalk and flower in food is prohibited due to the presence of unapproved food ingredients, in particular cannabidiol (CBD). This prohibition within the governing food laws appears to conflict with §35-61-108(2) C.R.S., which states:

“Notwithstanding any other provision of law, a person engaged in processing, selling, transporting, possession, or otherwise distributing industrial hemp cultivated by a person registered under this article, or selling industrial hemp products produced therefrom, is not subject to any civil or criminal actions under Colorado law for engaging in such activities. The department may promulgate rules to require approved shipping documentation for the transportation of hemp.”

Policy: In accordance with §35-61-108(2) C.R.S., the use of all parts of the industrial hemp plant is allowed as a food ingredient in Colorado. Those manufacturers producing food items that contain IH must register with CDPHE under the provisions of C.R.S., §25-5-426. This policy establishes the allowance for and conditions that must be adhered to for IH to be utilized in food. This policy does not establish or infer conformance with applicable federal laws.

Conditions: In order for food to contain IH, the manufacturer must be able to demonstrate the following:

- All parts of the hemp plant utilized in food must come from a state that has an established and approved industrial hemp program or a country that inspects or regulates hemp under a food safety program or equivalent criteria to ensure safety for human consumption.
- The IH producer/grower must be in good standing and compliance with the governing laws within the state or country of origin.
- The IH must conform to the standard of identity¹ established in C.R.S., §35-61-101(7) of no more than three-tenths of one percent delta-9 tetrahydrocannabinol (THC).
- The use of other parts of the IH plant other than seed and its derivatives: seed meal, flour, and oil, shall have lab test results indicating the levels of THC within the derivatives are not above the allowable limit of three-tenths of one percent THC.
- The product must be labeled in conformance with state and federal labeling laws, including:
 - clearly identify hemp as an ingredient;
 - clearly identify CBD and the amount of CBD if added as an isolate;
 - include the statement “FDA has not evaluated this product for safety or efficacy” and;
 - not contain any health or benefit claims.
- The producer must be able to document that the finished product does not contain more than three-tenths of one percent THC.

¹ Mandatory requirements which are set by a governing body that determine what a product must contain to be marketed under a certain description/name in commerce.