PUSHING PROGRESS

HEMP INDUSTRY WORKING GROUP ADDRESSES 2025 LEGISLATIVE AND POLICY CHALLENGES

Developed by an ad hoc coalition of hemp associations ahead of the upcoming Farm Bill and legislative session to outline a unified framework for lasting, cross-agency hemp policy.

November 2025

HEMI

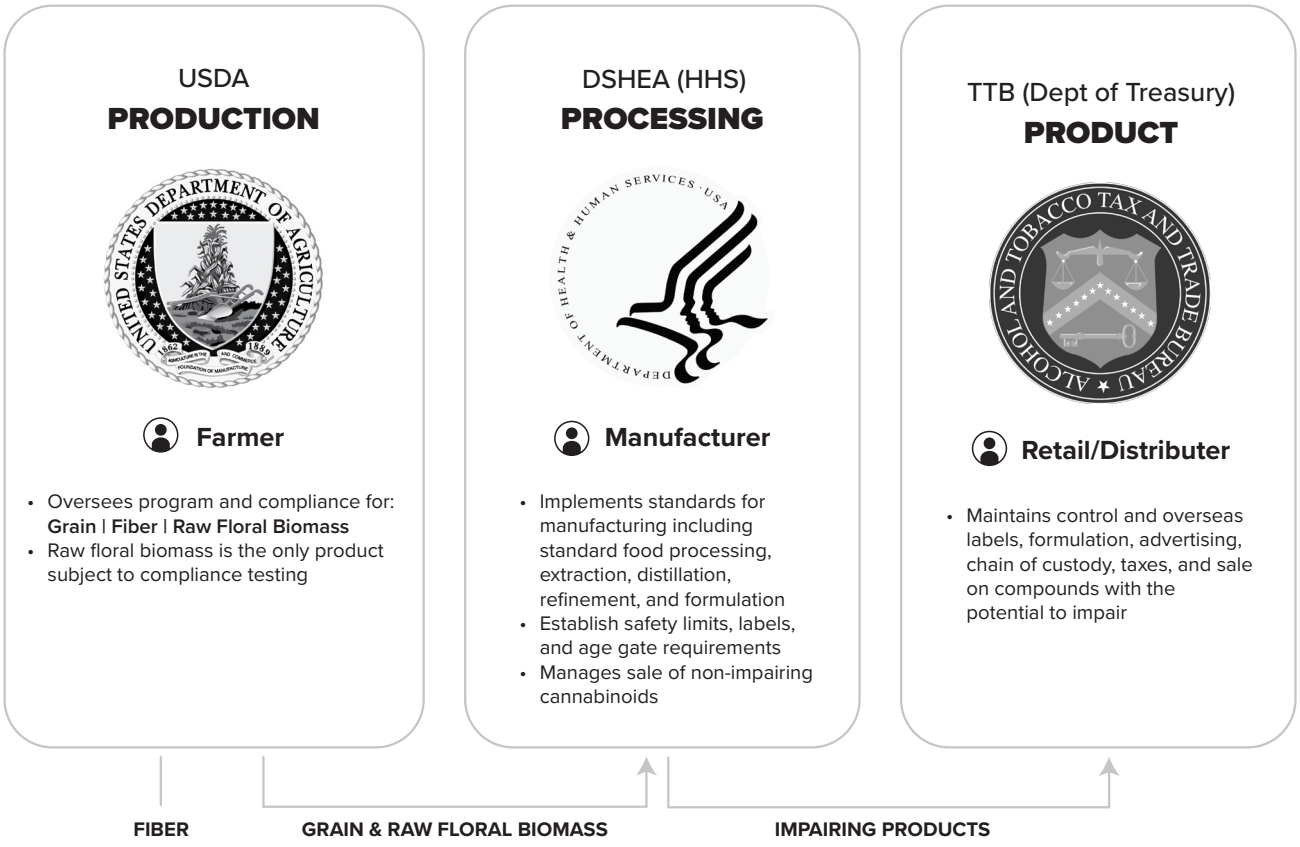
EXECUTIVE SUMMARY

The 2018 Farm Bill legalized hemp as an agricultural commodity under 7 U.S.C. §§ 1639o–1639s, but it did not establish a framework for post-harvest manufacturing or retail cannabinoid products. Congress's intent was clear: to decriminalize cultivation, not to regulate cannabinoids in commerce.

The absence of a coherent federal framework for finished cannabinoid products stems from FDA's failure to implement rules under DSHEA (21 U.S.C. § 321(ff)) and DEA's narrow interpretation of the Controlled Substances Act (21 U.S.C. § 802).

Our objective in the next Farm Bill is to clearly define industrial and floral hemp separately and direct USDA to manage hemp production based on the intended end use of the material. This bifurcation protects agricultural producers growing grain and fiber while establishing a clear regulatory pathway for cannabinoid-producing hemp. By doing so, Congress can properly assign jurisdiction and guarantee action by subsequent regulatory bodies—USDA for agriculture, FDA for consumables, and TTB for impairing products.

This represents the first step toward restoring clarity and balance to federal hemp policy. Complementary language under the Energy & Commerce Committee will be imperative to secure a complete solution to the challenges facing today's hemp industry. This document outlines the foundational concepts that must be addressed in that forthcoming policy work and reflects the united effort of a coalition of hemp advocates and subject-matter experts prepared to support and advance that next phase.



FRAMEWORK:
STEP-BY-STEP POLICY FRAMEWORK IMPLEMENTATION

Step 1 — Farm Bill: Establish Clear Definitions and Jurisdiction

Objective: Create the legal foundation for bifurcation and purpose-driven regulation.

- Define Industrial Hemp (fiber & grain) and Floral Hemp (cannabinoid-producing).
- Direct USDA to administer a licensing framework that aligns crop production with intended end use.
- Update USDA compliance testing to maintain pre-harvest sampling but adopt a 1.0% Total THC threshold to reflect real-world crop variability and eliminate exploitation of the 0.3% Δ9 loophole.
- Clarify that USDA manages agricultural hemp, while FDA, TTB, and DEA regulate downstream consumer and chemical applications.

Step 2 — Energy & Commerce (E&C) Bill: Direct FDA to Regulate Non-Impairing Cannabinoids

Objective: Create a lawful, science-based path for consumer products that are non-impairing.

- Amend DSHEA to establish clear authority for FDA over non-impairing cannabinoids.
- Require FDA to maintain its acknowledgement of prior GRAS applications for hemp seed, oil, protein, and hull ingredients
- Direct FDA-CVM to approve hemp grain products for use in feed and products specifically intended for companion animals and non-food-producing animals, including horses, consistent with the fact that these ingredients would have been considered generally recognized as safe and effectively grandfathered prior to enactment of the Food, Drug, and Cosmetic Act.
- Direct FDA to set serving limits, labeling standards, and GMP requirements for hemp-derived cannabinoid ingredients, working in coordination with scientific experts (e.g., NCCRE, APHA) to base dosage thresholds on validated research.
- Ensure FDA rulemaking sets clear labeling, marketing, and product-quality requirements that uphold consumer protection and public health.

Step 3 — Within E&C Bill: Appoint TTB to Regulate Impairing Cannabinoids

Objective: Create a controlled, adult-use framework modeled on alcohol.

- Assign TTB as the lead regulator for potentially impairing cannabinoid products in coordination with FDA for health and labeling standards.
- Establish minimum age (21+), serving limits, QR-code disclosure, and child-resistant packaging requirements.
- Provide excise tax authority and state coordination mechanisms similar to alcohol distribution systems.
- Ensure DEA retains authority under the Controlled Substances Act for artificial cannabinoids—defined as compounds not naturally present in the cannabis plant.

Outcome:

A cohesive, end use regulatory structure that:

- Aligns agricultural oversight (USDA) with public health regulation (FDA, TTB, DEA).
- Establishes a complementary Energy & Commerce bill requiring FDA and TTB to assume jurisdiction over cannabinoid-containing products and to establish a federal definition of impairment and regulatory standards to govern it, along with consistent labeling and quality requirements.
- Eliminates regulatory gaps and gray areas post-Loper Bright by restoring clear congressional direction across all agencies.
- Protects consumers, strengthens lawful markets, and restores Congressional intent for hemp as a legitimate U.S. agricultural commodity.

WHY THIS LANGUAGE BRINGS ABOUT THE SOLUTION

PROBLEMS ADDRESSED/SOLVED:

X Problem: OVERBURDENSOME REGULATION FOR INDUSTRIAL HEMP FARMERS

✓ **Solution:** Establish a bifurcated licensing framework that distinguishes industrial hemp grown for grain and fiber from cannabinoid production. This allows regulators to streamline compliance, reduce unnecessary testing and reporting, and manage industrial hemp as a traditional agricultural commodity under USDA oversight.

X Problem: SINGLE DEFINTION OF HEMP LEADING TO MARKET CONFUSION AND UNCERTAINTY

✓ **Solution:** Establish separate sub-definitions for Industrial Hemp and Floral Hemp so each sector can be regulated with the appropriate level of oversight. This provides clarity, de-risks investment in low-risk agricultural production, and ensures targeted support, compliance, and market development for both pathways.

X Problem: PURPOSEFUL MISINTERPRETATION OF HEMP DEFINITION TO MARKET MARIJUANA AS HEMP

✓ **Solution:** Clarify statutory definitions to close the loophole created by the 2018 Farm Bill's 0.3% Δ9-THC standard, which some operators exploit to market high-THCA or marijuana-derived products as "hemp." Adopt a Total THC compliance metric and direct agencies to regulate cannabinoid products based on actual impairment potential to preserve Congressional intent and protect lawful markets.

X Problem: THCA FLOWER ENTERING MARKET UNDER PRE-HARVEST TESTING

✓ **Solution:** Maintain pre-harvest sampling requirements to reduce complications for on-farm inspections and align with existing compliance systems. However, update the compliance threshold to 1.0% Total THC to prevent production and sale of high-THCA floral material that ultimately yields impairing products when decarboxylated.

X Problem: THE SALE OF IMPAIRING PRODUCTS FROM HEMP DERIVED INGREDIENTS

✓ **Solution:** Establish TTB as the primary jurisdictional authority over final-form impairing hemp products, requiring consultation with FDA consistent with DSHEA and direct TTB to promulgate regulations on permissible limits, manufacturing standards, labeling, and age restrictions for impairing product.

STEP 1: FARM BILL ASK
DEFINITIONS + ADDITIONAL LANGUAGE CONSIDERATIONS

Definitions:

A. Industrial Hemp (material not subject to compliance testing)

The term "industrial hemp" means hemp—

a. grown for the use of the stalk of the plant, fiber produced from such a stalk, or any other non-cannabinoid derivative, mixture, preparation, or manufacture of such a stalk;
b. grown for the use of the whole grain, oil, cake, nut, hull, or any other non-cannabinoid compound, derivative, mixture, preparation, or manufacture of the seeds of such plant;
c. that is an immature hemp plant (microgreens) intended for consumption;
d. grown for the use of viable seed of the plant produced solely for the production or manufacture of any material described in subparagraphs (a) through (d).

Industrial hemp does not include raw floral biomass material as defined in subparagraph (B).

B. Floral Hemp (material subject to compliance testing – Preharvest sampling; 1% Total THC)

The term "floral hemp" means hemp cultivated for the use of raw floral biomass, including inflorescences, flowers, and leaves, for the use, extraction or manufacture of cannabinoids, terpenes, essential oils, or other phytochemical compounds.

C. Research Hemp

Hemp that does not enter the stream of commerce and is intended solely to support hemp research at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) or an independent research institute.

Additional Language Required for Regulatory Direction:

a. Establish authority for USDA, in coordination with DEA, to create a national laboratory accreditation program for hemp testing, including certificates of accreditation for labs conducting compliance analyses.
b. Products derived from raw floral biomass and marketed as consumables shall be regulated under the Dietary Supplement Health and Education Act of 1994 (DSHEA).
c. The Alcohol and Tobacco Tax and Trade Bureau (TTB) shall regulate and enforce the manufacture, sale, and distribution of impairing cannabinoids.
d. The Secretary of Health and Human Services, acting through the Food and Drug Administration's Center for Veterinary Medicine (FDA-CVM), in coordination with the Secretary of Agriculture and state feed control officials through the Association of American Feed Control Officials (AAFCO), shall establish expedited pathways for the review and approval of industrial hemp co-products—including, but not limited to, hemp seed meal, oil, hulls, hearts and screenings—for use in feed for non–food-producing animals.
e. Funding: There are authorized to be appropriated such sums as may be necessary for the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of the Treasury to implement, administer, and enforce the provisions of this Act, including outreach, compliance assistance, and state coordination.

STEP 2: LEGISLATION THROUGH ENERGY & COMMERCE

Option 1 – Modify the Griffith Bill (CHP02)

Most viable near-term path

Amend or refine the existing CHP02 bill to explicitly codify:

1. **Authorization of consumable and inhalable hemp-derived products** under regulated conditions.
2. **Thresholds and limits** for cannabinoid content and impairment potential.
3. **Mandatory labeling, packaging, and transparency standards.**
4. **Formal definitions and regulatory lanes** delineating agency jurisdiction (FDA, TTB, DEA, USDA).

Under this approach, Congress would use the Griffith bill to:

- Direct the **FDA,** under DSHEA and the FD&C Act, to regulate non-impairing cannabinoid products.
- Delegate authority to the **TTB** to regulate, tax, and enforce impairing cannabinoid products, in coordination with FDA and HHS.
- Reaffirm that **artificial cannabinoids** derived from industrial precursors remain controlled substances under DEA jurisdiction.

This option builds on existing legislative momentum, providing a practical and bipartisan vehicle to achieve the three-lane framework through targeted amendments.

Option 2 – Create a Stand-Alone Cannabinoid Regulation Bill

Alternative or parallel vehicle

If modifications to CHP02 are not achievable, a new stand-alone bill could:

- Define jurisdictional boundaries by codifying the **three-lane regulatory framework below:**
  - **Lane A** – Hemp foods, feeds, and non-impairing cannabinoids (FDA/DSHEA)
  - **Lane B** – Potentially impairing cannabinoids (TTB + FDA)
  - **Lane C** – Artifical cannabinoids (DEA/CSA)
- Direct the **Alcohol and Tobacco Tax and Trade Bureau (TTB)** within the Department of the Treasury to regulate products “containing cannabinoids with potential to impair or intoxicate.”
- Require the **TTB** to issue regulations covering registration, labeling, taxation, age gating, and enforcement.
- Preserve **USDA jurisdiction** over hemp cultivation.
- This stand-alone vehicle provides greater structural clarity for federal and state coordination and could be pursued if Energy & Commerce efforts stall or if appropriations language opens a faster path for Treasury involvement.

Coordination Mechanism:

In either scenario, we recommend Congress establish a Federal Hemp and Cannabinoid Working Group composed of key agencies—including FDA, USDA, TTB, DEA, HHS, and technical experts, including - AHPA, NCCRE, NIST, AOAC, and USP—to develop consistent analytical methods, product standards, and enforcement guidance. This body would ensure alignment across federal programs and leverage existing expertise within the regulated natural products and analytical science communities.

HEMP INDUSTRY POLICY FRAMEWORK & LEGAL ANALYSIS

Defining Federal Roles in Hemp and Cannabinoid Regulation Following the Loper Bright Decision

Attribution:

Hemp Industry Working Group — November 2025

I. INTRODUCTION

This memorandum proceeds on the assumption that there is broad support across Congress, the Administration, and key stakeholders for the bifurcation of Industrial and Floral Hemp, and for a corresponding fit-for-purpose licensing framework under USDA. This structure would allow cultivation and program management to align with the intended end use of the crop—fiber, grain, or cannabinoids—rather than a one-size-fits-all regulatory model.

These actions aim to restore clarity and continuity in federal hemp policy through a risk-based framework that separates low-risk agricultural production from higher-risk cannabinoid production, establishes clear guardrails, and ensures consistent oversight across jurisdictions. Ultimately, the purpose of this memorandum is to outline a balanced path forward—one that protects public safety while guiding the responsible development of consumer and market demand within America's evolving hemp economy.

Legal Analysis

In 2024, the Supreme Court's decision in Loper Bright Enterprises v. Raimondo eliminated judicial deference to agency interpretations (Chevron deference). Congress must now legislate jurisdiction explicitly and precisely. Attempting to regulate cannabinoid products by redefining "hemp" in the Farm Bill would violate this principle and invite litigation.

The Hemp Industry Working Group provides a constitutionally sound, operationally practical solution: a three-lane, impairment-based framework assigning clear jurisdiction by risk level:

Lane	Jurisdiction	Scope
A	FDA (DSHEA)	Non-impairing cannabinoids
B	TTB (Treasury)	Potentially impairing cannabinoids
C	DEA (Justice)	Artificial cannabinoids

This structure:

- Uses existing statutory authorities;
- Aligns with Loper Bright and the Major Questions Doctrine; and
- Provides the regulatory clarity Congress must now deliver.

II. THREE-LANE FRAMEWORK

Lane A — Hemp Food, Feed, and Non-Impairing Cannabinoids (FDA / DSHEA)

Definition:

Hemp-derived products with low potential to impair, including hemp seed, oil, protein, and hull ingredients, as well as naturally occurring or bioconverted cannabinoids (major and minor) as safe under existing FDA authorities.

Statutory Basis:

FD&C Act + DSHEA (21 U.S.C. § 321(ff)).

Requirements:

- Compliance with FDA-aligned GMP, labeling, and quality standards (i.e., purity, identity, and absence of adulterants/contaminants).
- Conformance with GRAS, food additive, or new dietary ingredient (NDI) requirements as applicable.
- Adherence to DSHEA marketing and substantiation standards for structure/function claims.

Disclaimer:

Lane A represents the established, low-risk lane for hemp-derived products regulated as foods, feeds, and dietary supplements—consistent with FDA's authority and Congress's direction to provide lawful access to non-impairing hemp products manufactured to high quality and purity standards.

Implementation and Oversight Partners:

- **FDA –** Primary regulator for hemp foods, feeds, and non-impairing cannabinoids under the FD&C Act and DSHEA.
- **AHPA –** Recognized by HHS as a standards-development partner providing GMP and labeling guidance.
- **FDA-CVM/AAFCO –** Review and advise on ingredients for animal feed

Lane B — Potentially Impairing Cannabinoids (TTB + FDA)

Definition:

Cannabinoids capable of causing psychotropic or motor impairment at common doses, as determined by HHS in consultation with the National Center for Cannabis Research and Education (NCCRE) and the National Center for Natural Products Research (NCNPR).

Examples:

Δ^9-THC, Δ^8-THC, Δ^{10}-THC, THC-O, and other intoxicating analogues.

Statutory Basis:

Modeled on alcohol regulation under 26 U.S.C. Chapter 51 (Alcohol, Tobacco, and Certain Other Excise Taxes), with coordinated product safety oversight by FDA.

Requirements:

- Minimum purchase age: 21 years.
- Serving limits: Based on consultation with technical experts familiar with market adoption, consumer behavior, and science-driven responsibility, set serving limits for ingestible products (e.g. ~ 5 mg Δ^9-THC per serving)
- QR-code labeling disclosing total intoxicating cannabinoid content.
- Child-resistant, tamper-evident packaging standards.
- Toxicology and impairment thresholds established by HHS / NCCRE / NCNPR.

Implementation and Oversight Partners:

- **TTB –** Lead regulator for labeling, distribution, and excise taxation of intoxicating cannabinoid products.
- **FDA –** Joint oversight for quality, manufacturing, and consumer labeling standards.
- **HHS / NCCRE / NCNPR –** Scientific authorities determining impairment thresholds and toxicity guidance.
- **State Alcohol or Cannabis Control Agencies –** Coordinate enforcement and licensing within state jurisdictions.

Lane C — Artificial Cannabinoids (DEA / CSA)

Definition:
Substances not chemically identical to naturally occurring phytocannabinoids and produced through artificial means, including compounds such as THCP, HU-210, and related analogues.

Statutory Basis:
Regulated under the Controlled Substances Act (CSA, 21 U.S.C. § 812), with scheduling authority governed by CSA § 811.

Requirements:

- Fully scheduled substances remain controlled under federal law.
- Manufacturing, distribution, and possession subject to DEA registration, tracking, and enforcement provisions.

Implementation and Oversight Partners:

- **DEA –** Lead enforcement and scheduling authority under the CSA.
- **HHS –** Scientific and medical evaluation for scheduling determinations.
- **FDA –** Consultation on potential pharmacological equivalence or public health risks.
- **State Law Enforcement and Public Health Agencies –** Support enforcement and surveillance of synthetic cannabinoid markets.

Recommended Scientific and Standards Infrastructure

Institution	Role	Funding / Authority
NCCRE (University of Mississippi)	Coordinates impairment and toxicology research for HHS	$5 M annually FY 2026–2030
NCNPR (University of Mississippi)	Primary toxicology and natural products laboratory; DEA-licensed research site	Operates under existing DEA authority
AHPA	HHS-recognized standards body for GMP and labeling under DSHEA	Recognition continued by HHS
NIST / AOAC / USP	Analytical method validation and reference standards	Cooperative agreements with HHS and NCCRE

III. IMPLEMENTATION TIMELINE

Action	Agency	Deadline (Post-Enactment)
Publish impairment classifications and safety thresholds	HHS / NCCRE / NCNPR	180 days
Establish unified registration portal	FDA + TTB	270 days
Promulgate final rules	FDA / TTB / DEA	18 months
Full enforcement commences	All agencies	24 months

IV. LEGISLATIVE INTENT OF THE 2018 FARM BILL

A. Statutory Text

Section 10113 of the Agriculture Improvement Act of 2018 added Subtitle G to the Agricultural Marketing Act of 1946:

> **7 U.S.C. § 1639o(1):** "The term hemp means the plant Cannabis sativa L. … with a Δ^9-THC concentration of not more than 0.3 percent on a dry-weight basis."

Sections 1639p–1639q authorize State, Tribal, and USDA plans for production—licensing, sampling, and destruction of non-compliant crops. The statute never mentions manufacturing, extraction, processing, packaging, or retail sale.

USDA regulations confirm:

> **7 C.F.R. § 990.1:** "Production means to grow, cultivate, or harvest hemp."

Hence, the Farm Bill governs cultivation only.

B. Legislative Record

Committee reports (H. Rept. 115-1072; S. Rept. 115-334) and floor debates confirm Congress's purpose:

- Remove hemp from the Controlled Substances Act;
- Promote rural development; and
- Leave consumer-product safety and marketing with FDA and DEA.

V. WHY REDEFINING "HEMP" CANNOT REGULATE FINAL-FORM PRODUCTS

Issue	Consequence
No Delegation	USDA's authority under 7 U.S.C. § 1639p(a)(1) covers production only—not manufacture or sale.
Jurisdictional Conflict	Oversight of finished products already lies with FDA, TTB, and DEA. Changing the definition of hemp cannot amend their statutes.
Commerce Clause Conflict	7 U.S.C. § 1639r(b) bars States from restricting interstate hemp transport. Redefinition that limits derivatives would contravene federal preemption.
Administrative Incapacity	USDA lacks laboratories and consumer-safety enforcement tools.

VI. THE REAL REGULATORY VACUUM: FDA AND DEA

Congress has repeatedly directed the Food and Drug Administration (FDA) to establish lawful pathways for hemp-derived cannabinoids under the Dietary Supplement Health and Education Act (DSHEA), through both House and Senate Appropriations (FY 2020–2023) and House Energy & Commerce hearings (2022–2024).

In its 2023 response, FDA declined to act, stating that "a new framework would require congressional action." In doing so, the agency effectively acknowledged the very premise of this memorandum: that Congress must now create a clear, fit-for-purpose regulatory framework, one that differentiates non-impairing, naturally occurring hemp cannabinoids from artificial or impairing compounds and assigns oversight accordingly.

At the same time, the Drug Enforcement Administration (DEA) has applied inconsistent interpretations of the Controlled Substances Act to non-impairing cannabinoids, contributing to confusion and market instability.

The result is not a lack of statutory authority, but regulatory paralysis, a vacuum that has allowed bad actors to flourish while responsible businesses, farmers, and consumers operate without clarity or protection.

VII. ADMINISTRATIVE-LAW LANDSCAPE AFTER LOPER BRIGHT

A. From Chevron to Loper Bright

- **Chevron U.S.A. v. NRDC, 467 U.S. 837 (1984):** Courts traditionally deferred to agency interpretations of ambiguous statutes.
- **Loper Bright Enterprises v. Raimondo (2024):** Overruled Chevron.

"Courts must exercise independent judgment in deciding whether an agency acted within its statutory authority."

- **Result:** Judicial deference eliminated — statutory text now controls.

B. Major Questions Doctrine Reinforced

- **West Virginia v. EPA, 142 S. Ct. 2587 (2022):** Agencies require clear congressional authorization to act on issues of "vast economic and political significance."
- **Application:** Regulating the cannabinoid market plainly qualifies as a major question demanding explicit legislative direction.

VIII. SUMMARY

1. **Findings**
   Congress finds that (1) hemp is an agricultural commodity regulated by USDA; (2) post-harvest manufacture of cannabinoid products requires distinct federal oversight based on impairment potential.
2. **Jurisdictional Assignments**
   FDA (DSHEA): Non-impairing cannabinoids.
   TTB: Potentially impairing cannabinoids.
   DEA: Artificial cannabinoids.
3. **Science and Standards**
   HHS shall consult **NCCRE** and **NCNPR** and recognize **AHPA** standards.
4. **Funding**
   Authorize **$5 million annually (FY 2026–2030)** for NCCRE research and coordination with NCNPR.

IX. CONCLUSION

The Farm Bill governs agriculture, not chemistry.

The confusion facing states, manufacturers, and law enforcement stems from regulatory inaction—not statutory defect.

In the wake of Loper Bright, Congress can no longer rely on vague delegations or agency improvisation. It must now legislate clear, fit-for-purpose authority that distinguishes Industrial from Floral Hemp and directs oversight based on impairment potential and intended use.

A precise, three-lane framework—assigning jurisdiction among FDA, TTB, and DEA—restores regulatory clarity, protects public safety, and provides a durable foundation for America's evolving hemp economy.

The Hemp Industry Working Group provides that roadmap—legally sound, scientifically grounded, administratively feasible, and constitutionally durable.

Prepared for Congressional and Inter-Agency Distribution

Authorship and Coalition Participation

This document was prepared by the primary authors listed below and reflects the collective policy analysis and recommendations of the Hemp Policy Ad Hoc Working Group. Affiliations are provided for identification only, and the views expressed here represent the consensus position of the working group at the time of publication.

A formal coalition signature page will accompany the finalized version of this document to reflect the support of additional hemp associations, industry organizations, and aligned stakeholders who wish to join in endorsing this framework.