



# Hemp Provisions in the House Farm Bill and FY2025 Agriculture Appropriations Bill

June 17, 2024

Recent action by the House Agriculture Committee on the next farm bill (Farm, Food, and National Security Act of 2024; H.R. 8467, as amended) and the House Agriculture Appropriations Subcommittee on the [FY2025 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill](#) would amend the [Domestic Hemp Production Program \(§§1639o-s\)](#) administered by the U.S. Department of Agriculture (USDA) to prohibit the commercial production, sale, and distribution of certain intoxicating hemp derivatives and products. Congress is continuing to debate these proposed changes as it proceeds to consider these bills. These provisions have both [supporters](#) and [detractors](#).

## Existing Hemp-Related Requirements

The 2018 farm bill (Agriculture Improvement Act of 2018; P.L. 115-334, §12619) legalized hemp by establishing a statutory definition for *hemp* ([7 U.S.C. §1639o](#)) that excludes hemp from the definition of *marijuana* ([21 U.S.C. §802\(16\)](#)) under the Controlled Substances Act (CSA; [21 U.S.C. §§801 et seq.](#)) and oversight by the U.S. Drug Enforcement Administration (DEA) (botanically, [hemp and marijuana are from the same species of plant, \*Cannabis sativa\* L.](#)). The 2018 farm bill (P.L. 115-334, §§10113-10114) established the [Domestic Hemp Production Program \(§§1639o-s\)](#) requiring hemp producers comply with USDA regulations promulgated in consultation with the U.S. Attorney General ([7 U.S.C. §1639r\(a\)\(1\)\(B\)](#) and [§1639q\(c\)\(3\)](#)). USDA issued its [final hemp regulations in January 2021](#). In enacting the 2018 farm bill, Congress preserved the laws and regulations of the Food and Drug Administration (FDA) and the Federal Food, Drug, and Cosmetic Act (FFDCA; [21 U.S.C. §§301 et seq.](#)) regarding hemp-derived products ([7 U.S.C. §1639r\(c\)](#)). FDA continues to assert that products containing cannabis and cannabis-derived compounds, including cannabidiol (CBD), tetrahydrocannabinol (THC) derivatives, and other cannabinoids remain under its jurisdiction and that it is “unlawful” under the FFDCA “[to introduce food containing added CBD or THC into interstate commerce, or to market CBD or THC products as, or in, dietary supplements, regardless of whether the substances are hemp-derived.](#)”

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## House Agriculture Committee's 2024 Farm Bill

The House Agriculture Committee passed a 2024 farm bill (Farm, Food, and National Security Act of 2024; H.R. 8467) on May 23, 2024, and would add new and modify existing statutory definitions related to hemp cultivation and its products, and make certain changes to how hemp is regulated by USDA.

H.R. 8467 (§10006) would add a new statutory definition of *industrial hemp* to mean hemp grown for fiber or for the “whole grain, oil, cake, nut, hull, or any other non-cannabinoid compound, derivative, mixture, preparation, or manufacture of the seeds of such plant,” among other related changes. H.R. 8467 would relax certain regulatory requirements for producers of industrial hemp only, including to reduce or eliminate testing requirements and background checks, and take steps to eliminate the existing 10-year period of ineligibility following the date of conviction for a felony related to a controlled substance. Changes related to *industrial hemp* in H.R. 8467 broadly reflect proposed changes in H.R. 3755/S. 980.

In addition, H.R. 8467 as amended in an [en bloc amendment](#) (#35) would make changes to clarify the types of hemp cannabinoid products that would be considered lawful under USDA's hemp program. (As of June 17, 2024, text on congress.gov is not updated.) As passed by committee, the bill would redefine the existing statutory definition of *hemp* (7 U.S.C. §1639o) by replacing language basing the legal limits for hemp on its delta-9 tetrahydrocannabinol (delta-9 THC) concentration and instead basing the definition on hemp's “total tetrahydrocannabinol [Total THC] (including tetrahydrocannabinol acid (THCA)) concentration.” Other statutory language regarding hemp “derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not” would remain unchanged. The [amendment](#) specifies that *hemp* would exclude non-naturally occurring synthetic and intoxicating products (i.e., allows only naturally occurring or derived nonintoxicating products). While the [amendment](#) does not define *intoxicating*, it would prohibit hemp cannabinoid products with “quantifiable amounts” of Total THC (including THCA) or any other cannabinoids that have (or are marketed to have) “similar effects on humans or animals” as THC, as determined by USDA. This would not prohibit all hemp cannabinoid products, such as CBD, but would require determinations by USDA based on available scientific research and quantification methods. This approach recognizes the rapidly evolving landscape of hemp derivatives. The [amendment](#) further adds a statutory definition of a *hemp cannabinoid product* that would exclude those derived from *industrial hemp*.

Changing the basis for determining the legal limits for *hemp* on its Total THC (including THCA) concentration is broadly consistent with regulatory practices established by USDA. (USDA's [2021 final hemp regulations](#) provide a rationale for this determination.) The exclusion of synthetic compounds is consistent with an April 2024 determination by DEA regarding the control status of cannabis compound, hexahydrocannabinol (HHC) under DEA laws. In that case, DEA determined that HHC “[does not occur naturally in the \*Cannabis sativa\* L. plant and can only be obtained synthetically, and therefore does not fall under the definition of hemp.](#)” Some states have adopted or are considering similar restrictions. These include prohibition of intoxicating hemp cannabinoid products or regulating such products under a state's medical or recreational marijuana regulations, thus limiting access through a licensed state dispensary.

## House Subcommittee on FY2025 Agriculture Appropriations

The House Agriculture Appropriations Subcommittee's [FY2025 Agriculture Appropriations bill](#) includes a provision (§760) that is nearly identical to the [en bloc amendment](#) (#35) discussed above. (As of June 17, 2024, text on congress.gov is not updated.) Accordingly, the bill would clarify that *hemp* include only naturally occurring, non-synthetic, nonintoxicating hemp cannabinoid products and exclude those with “quantifiable amounts” of Total THC (including THCA) that have (or are marketed to have) similar

effects as THC, as determined by USDA in consultation with FDA. (Similar to as described above.) The appropriations provision, however, does not include a definition of *industrial hemp*, although the bill makes allowances for industrial hemp for use in hemp cannabinoid products. This exclusion could create confusion since the term is not defined. Appropriations acts usually do not amend the *U.S. Code*; however, this is possible pending resolution of points of order under House rules.

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