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Farm Bill Primer: Hemp Industry Support and Regulation

Hemp is a variety or cultivar of *Cannabis sativa*—the same plant as marijuana—grown to produce nonpsychoactive food, beverage, consumer, and industrial products. The 2018 farm bill (Agriculture Improvement Act of 2018; P.L. 115-334) removed hemp (as defined, see **text box**) from the definition of marijuana in the Controlled Substances Act (CSA; 21 U.S.C. §§802 et seq.). The 2018 farm bill further directed the U.S. Department of Agriculture (USDA) to create a framework to regulate hemp cultivation under federal law and facilitate hemp’s commercial cultivation, processing, marketing, and sale. USDA published its hemp final rule in 2021. Other 2018 farm bill provisions made hemp producers eligible for federal crop insurance and agricultural research programs. Congress may consider further policy changes as it debates the next farm bill.

Overview of the U.S. Hemp Industry

USDA-reported data show that the U.S. hemp industry has contracted in recent years. The farm-level value of total utilized hemp production across all market segments (i.e., hemp fiber, grain, seed, and flower) was \$291 million in 2023 compared with \$824 million in 2021. Both outdoor planted acres and square-feet under protection were lower in 2023 than in 2021 and 2022 (**Table 1**). Floral hemp grown in the open was the dominant type of hemp grown in 2021–2023, as measured by total value and acreage. In contrast, the value and acreage dedicated to hemp fiber, grain, and seed production were lower. Floral hemp tends to command higher market prices compared with other marketable uses for hemp. (See CRS In Focus IF11860, *Production, Marketing, and Regulation of Hemp Products*.)

Terms and Definitions

Hemp—Defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol [THC] concentration of not more than 0.3 percent on a dry weight basis” (7 U.S.C. §1639o).

Cannabinoids—No specific definition of cannabinoids exists in the *U.S. Code*. *Cannabinoids* refer to the unique chemical compounds produced in the *Cannabis sativa* plant, which are known to exhibit a range of psychological and physiological effects. There are more than 100 cannabinoids in the cannabis plant. Tetrahydrocannabinol (THC) and cannabidiol (CBD) are the two most well-researched and abundant cannabinoids.

See CRS Report R44742, *Defining Hemp: A Fact Sheet*.

Hemp is grown in all U.S. states under a USDA-approved state plan or a USDA general license. The leading hemp producing states—with more than 1,000 harvested acres grown in the open in 2023—were South Dakota (2,900), Montana (2,450), Oregon (2,050), California (1,900),

Missouri (1,410), Idaho (1,260), and Kentucky (1,210). Production by state tends to be highly variable year to year. Overall, harvested hemp accounts for a small share of total U.S. harvested cropland acres (<0.1%). Harvested acres are often reported as lower than planted acres, reflecting the difference between legal hemp that falls below permitted THC limits and noncompliant (or “hot”) hemp that is prohibited from entering U.S. marketing channels. USDA estimates about 20% of hemp grown during the crop year will exceed legal THC limits, demonstrating the inherent risks to farmers of growing hemp under USDA regulations.

Table 1. U.S. Hemp Production by Market, 2021–2023

Market Segment	2021	2022	2023
	(\$ in millions)		
Hemp Production in Outdoor Open Field			
Floral hemp	623.2	178.9	241.4
Hemp grains	6.0	3.6	2.3
Hemp fiber	41.4	28.3	11.6
Hemp seed	41.5	1.5	2.9
Subtotal	\$712.2	\$212.3	\$258.2
Total Planted Acres	54,152	28,314	27,680
Hemp Production Under Protection			
Floral hemp	64.4	24.7	25.8
Hemp seed	23.7	8.5	6.3
Clones/Transplants	23.8	0.7	0.9
Subtotal	\$111.9	\$34.0	\$32.9
Total Square-Feet	15,590,395	4,876,743	3,244,527
Total Farm Value	\$824.1	\$246.2	\$291.0

Source: CRS, from USDA’s National Hemp Reports and QuickStats. Numbers may not sum because of rounding. Reported acres across different segments are not additive given multi-crop production.

Hemp industry priorities for the next farm bill vary by national and regional groups, often with diverging policy goals and priorities, thus complicating policymaking. These priorities often are tied to the primary hemp products a group produces and/or represents or to the part of the hemp plant used (e.g., whether hemp is grown for fiber for industrial uses or for use in seed-derived food ingredients or as a dietary supplement or wellness product). To date, the Food and Drug Administration (FDA) has acknowledged three hemp product categories—hulled hemp seed, hemp seed protein, and hemp seed oil—as generally recognized as safe (GRAS) for use in human food. Other hemp-derived derivatives and extracts (or *cannabinoids*) have not been

acknowledged by FDA as GRAS for use as ingredients in food, beverages, and other types of consumer products.

Addressing Hemp in the Next Farm Bill

As Congress debates the next farm bill, it might consider proposals debated in the 118th Congress. Both the House and Senate considered farm bills in the 118th Congress—H.R. 8467 and S. 5335, respectively—that would have amended USDA’s Domestic Hemp Production Program (7 U.S.C. §§1639o-s). Both would have relaxed certain regulatory requirements for producers of hemp fiber and grain. H.R. 8467 (as ordered to be reported) also would have prohibited certain hemp derivatives and cannabinoid products. Other legislative proposals in the 118th Congress would have required FDA to establish a regulatory framework to allow for the marketing and sale of hemp derivatives and products.

Modifying USDA’s Hemp Regulation

Public comments submitted to USDA as it was developing its hemp regulations highlighted concerns among some grower groups and state regulators that certain requirements were overly restrictive and impractical. Concerns involved the oversight role of the Drug Enforcement Administration (DEA) in regulating hemp. Congress specifically included DEA’s consultative role in USDA’s regulation in the 2018 farm bill. Specifically, some opposed USDA requirements that hemp be tested at DEA-registered labs or that eligible testing labs be DEA-accredited and that testing for THC content of a hemp sample be based on total THC accounting for the conversion of tetrahydrocannabinolic acid into THC. Others opposed the 2018 farm bill’s exclusion preventing most persons with a felony controlled-substance-related conviction from obtaining a hemp license.

Some stakeholders support establishing separate requirements for different end products, as proposed in the 118th Congress (e.g., H.R. 3755/S. 980). Both H.R. 8467 and S. 5335 would have separately defined *industrial hemp* to cover 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,” thus differentiating it from hemp grown for hemp cannabinoids. This regulatory approach is consistent with other countries that regulate hemp fiber and grain separately from hemp-derived cannabinoids and low-THC extracts. Accordingly, for industrial hemp growers, regulatory requirements such as testing and background checks would have been reduced or eliminated. Industrial hemp growers also would not face restrictions involving a prior felony conviction related to a controlled substance. Separately, S. 5335 would have established a certified seed pilot program, similar to that in some other hemp-producing countries that require growers to use government-certified hemp seed only. USDA considered but did not require use of government-certified or approved seed for planting or processing as part of its hemp regulations. Potential legislative changes of this type could require changes to USDA’s regulations.

Addressing Product Safety Concerns

The 2018 farm bill addressed hemp cultivation only. It did not directly address consumer products containing hemp-

derived ingredients subject to FDA laws and regulations, as Congress explicitly preserved FDA’s authority related to such end-products (P.L. 115-334, §10113). Since 2018, certain hemp consumer products have remained unapproved and unregulated while FDA reviews the safety of cannabis and cannabis-derived products, including hemp-derived cannabidiol (CBD). In the 118th Congress, some legislative proposals would have removed FDA restrictions on the marketing of food and dietary supplements containing hemp-derived CBD by establishing federal quality and safety standards and labeling requirements for such products (e.g. H.R. 4849/S. 2451, H.R. 1628, H.R. 1629). Following years of review, in January 2023, FDA stated it would “work with Congress” to develop “a new regulatory pathway” for CBD. In July 2023, the House Energy and Commerce Committee and the Senate Health, Education, Labor, and Pensions Committee issued a request for information soliciting input on how to “provide a legal pathway” for marketing CBD products. See CRS In Focus IF12477, *FDA’s Oversight of Hemp-Derived Compounds*. It is unclear whether FDA laws and regulations related to certain hemp consumer products fall within the jurisdiction of the House and Senate agriculture committees.

In the 118th Congress, H.R. 8467 (as ordered to be reported) included an amendment that would have prohibited the commercial production, sale, and distribution of certain potentially psychoactive hemp derivatives and products under USDA’s hemp program, as well as nonnaturally occurring and synthetically derived hemp. Several states have taken similar steps to prohibit such hemp derivatives and products. These efforts address ongoing concerns that some hemp-derived consumer products may pose a risk to public safety and lack FDA oversight. The Cannabis Regulators Association (CANNRA) claims language in the 2018 farm bill established “loopholes” that created a market for potentially psychoactive (often referred to as *intoxicating*) hemp-derived cannabinoid products. Proposed prohibitions on such hemp-derived products have both supporters and detractors. Some other 118th Congress proposals would have required FDA to establish a regulatory framework to allow for the use of cannabinoids as an ingredient in food and beverage products. S. 5243, for example, would have amended the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 U.S.C. §§301 et seq.) to regulate chemical substances in the *Cannabis sativa* plant, “whether naturally occurring” in the plant “or synthetically or semi-synthetically derived” (including hemp-derived).

USDA Support for Hemp

Most hemp advocates seek to expand USDA farm program support for hemp and hemp products. Selected efforts include expanding USDA hemp research (e.g., genetics and soil carbon sequestration and phytoremediation potential), improving processing capacity of hemp fibers and their use in a range of biobased products, and adding hemp to the statutory definition of a *specialty crop* (which could qualify hemp for USDA grants tied to that definition). Other hemp-related efforts include expanding federal crop insurance for hemp and improving access to credit and banking services.

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