



# Changes to the Statutory Definition of Hemp and Implications for Agricultural Policy

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The FY2026 Agriculture appropriations law ([P.L. 119-37](#), Division B) amends the statutory definition of *hemp* in [7 U.S.C. §1639o](#) established by the Agriculture Improvement Act of 2018 (2018 farm bill; [P.L. 115-334](#), §10113). The change to the definition—scheduled to go into effect on [November 12, 2026](#)—may have implications for hemp growers and U.S. Department of Agriculture (USDA) policy. This In Focus discusses congressional actions regarding the definition of hemp, the potential effect of the new definition on the hemp industry, and selected issues for Congress. For the potential implications on the broader consumer product industry and law enforcement, see CRS Insight IN12620, [Change to Federal Definition of Hemp and Implications for Federal Enforcement](#).

## Background

Hemp and marijuana are from the same plant species, *Cannabis sativa*. Generally, growers describe hemp and marijuana as from different varieties or cultivars of cannabis, although regulators have characterized them according to their chemical content. Among the chemical compounds of cannabis are [cannabinoids](#). Cannabinoids include *tetrahydrocannabinols (THCs)*, which are psychoactive cannabinoids naturally contained in cannabis or [synthetically created](#) in a lab. *Delta-9 THC* is the primary psychoactive compound in cannabis though other THCs may be present in cannabis. Other cannabinoids (such as cannabidiol, or CBD) generally are not considered to be psychoactive.

From 1970 to 2018, cannabis and its derivatives were generally included in the definition of marijuana and [regulated](#) as Schedule I controlled substances by the Controlled Substances Act (CSA; 21 U.S.C. §§801 et seq.). The 2018 farm bill amended the definition of [marijuana to exclude hemp](#), as [defined in the farm bill](#), thus [allowing for hemp cultivation in the United States](#). In the legislation, Congress preserved the authority of the [Food and Drug Administration \(FDA\)](#) to regulate hemp-derived products.

The statutory definition of hemp from the [2018 farm bill](#) is

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 tetrahydrocannabinolic [THC] concentration of not more than 0.3 percent on a dry weight basis. (7 U.S.C. §1639o)

Some have interpreted the 2018 farm bill definition to mean that products containing 0.3% delta-9 THC or less, and that may contain significant amounts of other psychoactive compounds, would not be considered marijuana and would legally be considered hemp. This interpretation has been referred to as the so-called “[farm bill loophole](#).”

In the years following the enactment of the 2018 farm bill, some stakeholders and policymakers [raised concerns](#) about the proliferation of products marketed as hemp that contain other cannabinoids, such as delta-8 THC. These products are sold in a variety of formats (e.g., gummies, drinks, candies), with some packaged in containers similar to existing [snack food brands](#). Some of these products contain cannabinoids other than delta-9 THC at concentrations that can make the products intoxicating.

In the 119<sup>th</sup> Congress, for the FY2026 Agriculture appropriations bills, both the House and Senate deliberated whether to amend the statutory definition of hemp, including a limit of total THC and adding restrictions on potentially intoxicating cannabinoid products. Congress passed [P.L. 119-37](#), which amends the statutory definition of hemp as described below.

## Changes to the Definition of Hemp

The primary statutory definition of hemp after the enactment of [P.L. 119-37](#), Division B, §781, with certain inclusions and exclusions, is to become, after November 12, 2026,

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 total [THC] concentration (including tetrahydrocannabinolic acid [THCA]) of not more than 0.3 percent on a dry weight basis. (7 U.S.C. §1639o note)

While the 2018 farm bill definition of hemp contains a limit of 0.3% *delta-9 THC* on a dry weight basis, the new hemp definition includes a *total THC* concentration. This change reflects the fact that delta-9 THC is [not the only](#) potentially intoxicating THC in the cannabis plant (e.g., [delta-8 THC](#)).

## Inclusion of Industrial Hemp

The new hemp definition explicitly includes *industrial hemp*. Industrial hemp is defined in [P.L. 119-37](#) as hemp grown for the use of the stalk, whole grain, oil, cake, nut, hull, or any other non-cannabinoid derivative of the seeds. It also includes hemp used for fiber or for immature plants (e.g., microgreens or other edible leaf products). Hemp that is grown for research purposes and does not enter commerce is also included.

## Exclusions from the Definition of Hemp

The new definition of hemp contains exclusions. As of the effective date of the new definition (November 12, 2026), products excluded by these provisions are not to be deemed hemp products and would instead be subject to regulation under the CSA as marijuana. To restrict the distribution of certain hemp-derived [cannabinoid products](#), the new statutory definition for hemp excludes

- viable seeds from a cannabis plant that exceed a total THC concentration, including THCA, of 0.3% on a dry weight basis;
- any hemp-derived cannabinoid products (whether intermediate or final) that contain cannabinoids that “are not capable of being naturally produced” by a cannabis plant;
- any hemp-derived cannabinoid products (whether intermediate or final) that contain cannabinoids that “are capable of being naturally produced” but were “synthesized or manufactured outside the plant”;
- intermediate hemp-derived cannabinoid products (products either not in their final form or products marketed to be added to or mixed with another substance prior to use) that contain more than 0.3% combined total THC and other cannabinoids with similar effects; and
- final hemp-derived cannabinoid products that contain greater than 0.4 milligrams combined total per container (i.e., the innermost packaging in direct contact with a final hemp-derived cannabinoid product for retail sale) of total THC and other cannabinoids with similar effects.

For more on legal considerations surrounding the new hemp definition, see CRS Legal Sidebar LSB11381, *Changes to the Federal Definition of Hemp: Legal Considerations Under the Controlled Substances Act*.

### FDA Publication

P.L. 119-37 requires FDA to consult with relevant federal agencies and publish within 90 days of enactment (which, as of August 2026, has not been published)

- a list of all cannabinoids that are known to FDA to be capable of being naturally produced in a cannabis plant based on peer-reviewed literature;
- a list of THC class cannabinoids known to FDA to be naturally occurring in the plant;
- a list of all other known cannabinoids with similar effects to (or marketed to have) THC class cannabinoids; and
- additional information about the term container as defined in the law.

### Issues for Congress

Following enactment of P.L. 119-37, Congress has debated whether to delay the effective date of the new hemp definition or to delay the effective date of some aspects of the definition. Some stakeholders, including [attorneys general](#) in several states, have opposed delaying the effective date of the hemp definition,

stating general support for the new definition and that states have altered or aligned their laws and regulations with the new definition. Conversely, some hemp industry groups have expressed opposition to the definitional changes and prefer regulation of hemp-derived consumer products through agencies like FDA. These stakeholders have generally supported [delaying the effective date](#) for the new hemp definition to extend the time for Congress to potentially pass a different regulatory framework for hemp products.

On August 8, 2026, the Senate passed a continuing resolution (H.R. 6500) that would delay the effective date of most of the new hemp definition until December 11, 2026. Effective on November 12, 2026, would be the exclusion of intermediate and final hemp-derived cannabinoid products that contain cannabinoids that are not capable of being naturally produced by a cannabis plant (i.e., certain synthetic cannabinoids) from the definition of hemp. These products would be classified as marijuana under the CSA. The House-passed proposed continuing resolution (H.R. 9770) and FY2027 Agriculture appropriations bill (H.R. 8646) do not contain provisions that would delay the effective date of the new hemp definition. Other proposed legislation would delay the effective date of the new definition of hemp for an additional two years (H.R. 7024, H.R. 7010, S. 3686) or repeal the changes to the definition (H.R. 6209).

Congress may consider whether to further amend the statutory definition or implement regulatory frameworks for certain hemp products. For example, S. 2112, would amend the definition of hemp to allow up to a 1% delta-9 THC concentration. Another proposal includes a revised hemp definition allowing for up to 1% total THC (H.R. 9830). Another bill would defer to state definitions of hemp (S. 4315). Additionally, some legislation (H.R. 7212, H.R. 9830, H.R. 10079, and S. 3474) would provide regulatory frameworks for hemp-derived cannabinoid products through federal agencies such as FDA.

Congress also may consider other amendments in light of the new definition of hemp. The Farm, Food, and National Security Act of 2026 (H.R. 7567, as passed in the House) would amend the testing standard to be considered hemp to total THC rather than delta-9 THC. Additionally, the bill would require state and federal hemp production plans to further differentiate between industrial hemp and hemp produced for other purposes (i.e., for cannabinoid uses), such as by designating industrial hemp producers and adjusting testing requirements.

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