

PUBLICATION

Growing Interest in Regulation of Hemp

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The 2018 Farm Bill made growing and cultivating hemp federally legal – it removed hemp as a controlled substance at the federal level as long as its Tetrahydrocannabinol (THC) concentration doesn't exceed 0.3 percent. As a result, most states around the country followed suit and updated their laws, including the states where hemp research pilot projects have been operating since the 2014 Farm Bill. With the change in policy towards hemp came an increased interest in the crop and its products, such as Cannabidiol (CBD) oil. While the 2018 Farm Bill created excitement around the issue, there is still immense uncertainty due to pending regulations and guidelines from both the Food and Drug Administration (FDA) and United States Department of Agriculture (USDA).

During a U.S. Senate Agriculture Committee hearing in July, Greg Ibach, undersecretary of agriculture for marketing and regulatory programs, said that the USDA is reviewing a draft of the rule. The agency plans to publish it by this fall in order to accommodate the 2020 growing season. This would create more clarity for state guidelines, but also help clarify related issues, such as crop insurance.

The biggest question related to hemp is the FDA's regulation of CBD. The FDA has not approved the use of CBD in food products or as a nutritional supplement, despite a wide range of products already available on the market. The agency has been under immense pressure from Congress and stakeholders to issue its regulations and provide the clarity needed for the hemp market to advance. Early this summer, the FDA formed a committee to focus on the regulatory process surrounding CBD, and they hope to release a report by early fall outlining rules regarding the production and sales of the product.