



Policy Analysis Report: Implications of the November 2025 Federal Spending Bill for Tribal Hemp Producers

Introduction

The Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act 2026, passed to end the November 2025 government shutdown, includes provisions that update the federal definition of hemp and establish new rules for hemp-derived cannabinoid products.¹ These changes adjust the framework set by the 2018 Farm Bill and directly influence the definition of hemp, permissible cannabinoid levels, and the range of legal product categories. Tribal hemp producers will need to reassess regulatory compliance, business strategies, and economic sustainability, considering these updates.

Revised Definition and Product Exclusions

Under the amended provisions in Sec. 781 of the act, hemp is still defined as *Cannabis sativa* L. and its derivatives, but it now must contain no more than 0.3 percent total tetrahydrocannabinols (including THCA) on a dry weight basis, replacing the previous standard that focused solely on delta-9 THC.² The law also establishes a separate limit of 0.4 milligrams of total THC per container for final hemp-derived cannabinoid products. Industry and legal experts say this change will make most existing ingestible hemp products non-compliant. Tribal producers of wellness products that depend on full-spectrum extracts will likely need to reformulate or discontinue many of their current product lines.

The law further excludes from the definition of legal hemp any:

- Intermediate or final products containing cannabinoids that cannot be naturally produced by the plant or that are synthesized or manufactured outside the plant, even if those cannabinoids exist in trace natural amounts; and
- Products with more than 0.3 percent total THC (including THCA) or containing “other cannabinoids with similar effects” to THC, as determined by the Secretary of Health and Human Services.

Intermediate hemp-derived cannabinoid products that are marketed or sold as final products, or directly to end consumers for personal or household use, are also excluded

¹ “Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act 2026,” P.L.119-37, <https://www.congress.gov/bill/119th-congress/house-bill/5371/text>.

² *Id.* at Sec. 781 (2)(1)(A).

from the hemp definition, and any final product exceeding the 0.4 mg THC cap is unlawful.

Industrial Hemp and Scope of Activity

Federal law allows industrial hemp, including hemp grown for stalk, fiber, or non-cannabinoid seed products, as well as certain immature plants like edible microgreens and hemp cultivated for research, as long as these materials meet the total THC limit. Tribal operations mainly focused on cannabinoid extraction, and finished consumable products face much stricter regulations than those focused on fiber, grain, or other industrial uses.

Hemp-Derived Cannabinoid Product Regulation

The law creates a new federal category of “hemp-derived cannabinoid products” (HDCPs),³ defined as any intermediate or final product derived from hemp (other than industrial hemp) that contains cannabinoids in any form and is intended for human or animal use via inhalation, ingestion, topical application, or other routes of administration.

Within 90 days of enactment, FDA and other federal agencies must publish lists of: (1) cannabinoids known to be capable of being naturally produced by *Cannabis sativa L.*; (2) THC-class cannabinoids known to be naturally occurring in the plant; and (3) other cannabinoids with similar effects, as well as additional clarity on the definition of “container.” These determinations will shape which cannabinoids Tribes can work with in HDCPs and how products must be packaged and labeled.

Impact on Tribal Hemp Programs and Economic Considerations

The 2018 Farm Bill and USDA’s implementing regulations allowed States and Tribes to develop their own hemp production plans, subject to USDA approval or USDA-issued producer licenses.⁴ Many Tribes currently operate under these frameworks.

The 2025 amendments redefine what qualifies as legal hemp for all producers, including Tribal programs, by (1) counting THCA toward the 0.3% THC limit and (2) excluding a broad range of intoxicating and synthetic cannabinoids (e.g., delta-8 THC, THCP, HHC, THC-O). The 0.4 mg/container cap means that most hemp-derived THC beverages, edibles, and many full-spectrum CBD products will be banned unless reformulated. Tribal governments and small producers heavily invested in these categories face federal non-compliance risks, potential enforcement actions, and the practical challenge of redesigning product lines.

³ *Id.* at Sec. 781(1)(A)(C).

⁴ <https://www.federalregister.gov/documents/2021/01/19/2021-00967/establishment-of-a-domestic-hemp-production-program>

Industry and legal analysts warn that the new federal rules could devastate a \$28-billion hemp-derived products market and “wipe out...hundreds of thousands of jobs,” although precise employment impacts for Tribal communities are not yet quantified. ([Forbes](#)) Currently, USDA and FDA have not issued specific guidance for implementing Tribal hemp plans, and it remains unclear whether Tribes will be asked to resubmit or revise existing plans, or if formal Tribal consultation will be organized during rulemaking.

Affected Product Categories

- **Delta-8 THC and analogous cannabinoids.** Products such as vapes, gummies, and tinctures containing cannabinoids synthesized or manufactured outside the plant (e.g., delta-8 and many other “novel” cannabinoids) fall outside the new hemp definition and will be federally illegal, even if marketed as “hemp-derived.”
- **Full-spectrum CBD formulations.** Oils, tinctures, and capsules that contain trace amounts of THC will need to stay below both 0.3% total THC by dry weight *and* 0.4 mg total THC per container. Early analyses suggest that most existing full-spectrum ingestible products will exceed the 0.4 mg limit and therefore require reformulation or withdrawal.
- **Smokable hemp flower.** Pre-rolled and loose flower labeled as “hemp” will be difficult to keep compliant because typical THC levels in flower (even at or below 0.3% total THC) result in several milligrams of THC per package—far above the 0.4 mg cap per container. In addition, THCA content is now counted toward the 0.3% threshold. As a result, most commercial smokable hemp flowers, including THCA-rich varieties, is expected to fall outside the federal hemp definition.
- **Hemp-derived edibles and beverages.** Gummies, chocolates, and beverages infused with cannabinoids such as delta-8 THC, THCA, HHC, or THC-O are treated as intoxicating hemp products and will be prohibited if they contain more than 0.4 mg total THC per container or rely on synthetic or non-naturally produced cannabinoids.

Conclusion

The regulatory reforms in the 2025 federal spending bill mark a significant shift in hemp governance. They considerably narrow the federal definition of hemp, impose strict THC content limits, and effectively ban many intoxicating and full-spectrum hemp-derived products. For Tribal governments, the law tightens the federal baseline that Tribal hemp plans must follow and increases dependence on FDA and HHS decisions regarding which cannabinoids are allowed. Existing Tribal hemp plans are not automatically revoked, but they will need to be assessed against the new federal standards.

Industry observers warn that the changes could undermine the commercial sustainability of hemp-based enterprises and threaten a multibillion-dollar hemp-derived products market, with impacts on Tribal producers that entered the sector under the

2018 Farm Bill framework.⁵ IFAI recommends that Tribal producers and Tribal Nations engaged in the hemp industry:

(1) immediately review product formulations and supply chains for compliance with the revised federal hemp definition and the 0.4 mg/container cap;

(2) monitor and engage in federal rulemaking, particularly FDA's forthcoming cannabinoid and "container" determinations; and

(3) continue to monitor for any Tribal consultation and transitional support to protect Tribal producer viability in the evolving federal landscape.

IFAI will continue to monitor any developments in this space during the rulemaking process.

⁵ <https://www.forbes.com/sites/willyakowicz/2025/11/13/28-billion-hemp-industry-faces-extinction-with-government-re-opening/>