

FDA to Consider Regulation of CBD in Food



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Historically, all forms of cannabis—both hemp and marijuana—have been federally designated as illegal substances. That all changed this past December when the President signed the Agricultural Improvement Act (2018 Farm Bill) into law, declassifying hemp as a Schedule 1 substance.

As a result, [cannabidiol](#) (CBD)—the non-psychoactive compound found in hemp known for its relaxing and healing properties—has been catapulted into the national spotlight. With the green light from Congress, hemp-derived CBD oils, lotions, and gummies formerly found only in states where recreational marijuana is legal, are now making their way onto store shelves nationally.

This begs the question: what does the undeniable CBD craze mean for the food and beverage industry? Three words: be [cautiously](#) optimistic. There is a groundswell of public support for consistency in the regulation of CBD in the nation's food supply. As a result, lawmakers recently gave the FDA a bipartisan push to make the issue a top priority.

The FDA has responded. [Commissioner Scott Gottlieb confirmed](#) that on May 31, 2019, the FDA will be holding its first public hearing “to figure out how to regulate the newly legalized cannabis product.” These early indications that the FDA is

willing to consider a pathway towards a nationally regulated CBD market bodes well for the food industry, which is on the verge of unlocking an emerging marketplace category with endless potential.

Even with the FDA's prioritization of the issue, however, it may take several years for a cohesive regulatory framework to emerge. Indeed, if the newly regulated market for marijuana is any indication, navigating inevitably complex FDA policies applicable to such a dynamic industry in its infancy will be no easy task.

As a result, CBD manufacturers and their food industry partners should continue to stay well-informed of regulatory developments. In the meantime, proceed with caution. Commissioner Gottlieb confirmed that, at least for now, CBD use in food remains prohibited without prior FDA approval, and that the agency will continue to crack down on companies that falsely advertise their products. Moreover, regardless of any potential changes in federal regulation, state laws—including those that illegalize the use of CBD—still apply. We will continue to monitor developments in CBD regulation as they occur.

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