



# Submission to Health Canada

*Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*

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## About – Cannabis Beverage Producers Alliance

The Cannabis Beverage Producers Alliance ('CBPA') is a unified body of manufacturers, industry professionals, and advisors who advocate for the safe, reliable and responsible production of legal cannabis beverages. Upon the Alliance's formal launch, they will also act as the voice of consumers; lobbying for the right to allow for responsible consumption choices within a framework of wide legal access, all the while ensuring public safety.

The CBPA is led by the Honourable Darrell Dexter, the 27<sup>th</sup> Premier of Nova Scotia and current Chair of Global Public Affairs' cannabis practice. Further, the CBPA Board of Directors is composed of experienced actors, both within Canada and beyond, from across the cannabis and beverage alcohol industries. An overview of some of our membership base can be seen below:



## Regulatory Direction and Policy Elements

The CBPA appreciates the opportunity to provide comments related to the proposed Regulations Amending the *Cannabis Regulations* (New Classes of Cannabis). The CBPA supports the Government of Canada's efforts to address public health and public safety risks of the new classes of cannabis while also looking to displace the illicit market.

For the purpose of this submission, the CBPA has thoughtfully considered the current proposal's concerns in relation to:

- Appeal of such products to youth;
- Risk of accidental consumption, especially of edible cannabis, including by youth;
- Risk of overconsumption associated with edible cannabis (because of the delay in experiencing the effects of cannabis when it is ingested rather than inhaled) and cannabis products with a higher concentration of THC; and
- Risk of foodborne illness associated with the production and consumption of edible cannabis.

Given our membership is comprised of a broad, experienced group of actors across the beverage alcohol and cannabis industry supply chains, we believe we are uniquely positioned to provide feedback in this regard. Our primary issue areas concern the proposed separate facility requirement, the prohibition on beverage alcohol brand elements, and the restriction on familiar beverage alcohol packaging units (i.e.: 355ml can, 750ml bottle). For ease of reference, we have categorized our feedback according to the 13 consultation questions outlined by Health Canada [here](#). Further, we are more than happy to share any research referenced throughout the submission with Health Canada upon request.

## Specific Areas of Input

1. **What do you think about the proposed THC limits for the new classes of cannabis products?**

Issue:

Currently, regulations for capsules allow for 60 x 10mg/ml capsules, netting 600 milligrams per package. Per the proposed amendments, this will go up to 1000 milligrams of THC. As well, tinctures are currently permitted at 30mg/ml x 30ml in a single serving, netting 900 milligrams per package.

Recommendation:

The CBPA submits that 10 milligrams of tetrahydrocannabinol ('THC') per edible cannabis serving and 1000 milligrams of THC per single concentrate package are acceptable limits. The Alliance believes there should be a maximum limit of 100 milligrams of THC per package (edible or beverage), with no more than 10 milligrams of THC per single serving size.

Insight:

The CBPA believes this will help deter illegal activities in relation to cannabis, particularly considering the illicit market is known for high-dosed edibles. It will also ensure positive public health outcomes by allowing the consumer to standardize their dose and encourage the practice of 'microdosing.'

2. **Do you think the proposed new rules addressing the types of ingredients and additives that could be used in edible cannabis, cannabis extracts, and cannabis topicals appropriately address public health and safety risks while enabling sufficient product diversity?**

Issue:

The CBPA generally supports Health Canada's restrictions surrounding additives and ingredients in edible cannabis, cannabis extracts, and cannabis topicals.

Recommendation:

That being said, we would urge Health Canada to provide clarity within a separate guidance document on what product forms can and cannot impart a characterizing flavour, and what familiar infused food or beverage products would be deemed to be appealing to youth (i.e.: soda, cookies, etc.)

Insight:

Our recommendation for further clarification is rooted in ensuring processors licensed by Health Canada are given ample lead time to certify their planned product compositions remain compliant with the amendments to the *Cannabis Regulations*. By working closely with industry in this regard, Health Canada will ensure that licensed processors are prepared to distribute the new product classes to provincial wholesalers upon the coming-into-force of the regulations, thereby making them available to the end consumer as soon as possible and working to displace the illicit market.

- 3. Do you think that the proposed rules for other classes of cannabis will accommodate a variety of oil-based products for various intended uses, even though cannabis oil would no longer be a distinct class of cannabis?**

Issue:

The CBPA takes no issue with the proposed rules for other classes of cannabis and their ability to accommodate a variety of oil-based products.

Recommendation:

We believe the proposed limit of 1000 milligrams of THC per package of cannabis concentrates is sufficient to combat the illicit market.

Insight:

The CBPA has no further insight to share on this issue at this time.

**4. What do you think about the proposed six-month transition period for cannabis oil? Is a six-month transition period sufficient?**

Issue:

We believe the six-month transition period to be sufficient.

Recommendation:

The CBPA encourages Health Canada to work cooperatively with industry throughout the six-month transition period and keep organizations abreast of any changes that may arise to this timeline.

Insight:

The CBPA has no further insight to share on this issue at this time.

**5. What do you think about the proposed new rules for the packaging and labelling of the new classes of cannabis products?**

Issue:

We believe the proposed regulatory amendments in regard to packaging and labelling are a step in the right direction. It is reasonable for Health Canada to ensure that packaging and labelling requirements encompass all content relevant to the consumer at the time of purchase.

Recommendation:

The CBPA asks Health Canada to provide further clarity on provisions related to cannabis-infused beverage products. As we are sure Health Canada can appreciate, beverage products boast unique packaging and labelling needs given the exterior can become wet or humid depending on the temperature conditions in which the product

is stored. Consideration should be given to innovative packaging solutions from the beverage alcohol sector, such as corks, pry tabs and pry tops. Further, we would encourage Health Canada to support the continued use of familiar containers and sizes within the adult beverage category (e.g. 750ml wine bottles), provided they do not exceed the maximum amount of THC as outlined in the proposed amendments.

Insight:

Standardized beverage alcohol containers signal an established understanding on the part of the consumer that they contain a regulated intoxicant and are available for purchase at reputable licensed outlets, and with strict guidelines surrounding their sale, marketing, and distribution. Beer (as defined the *Food and Drug Regulations*)<sup>1</sup> in cans and bottles, with traditional pry-top enclosures, such as crown caps and pop tabs, remain difficult for children to access. In the wine segment, corks, or cork and cage require refined usage of a tool to extract the sealing mechanism. These should be viewed as sufficient dissuasion to use.

**6. With respect to edible cannabis, what do you think about the requirement for all products to be labelled with a cannabis-specific nutrition facts table?**

Issue:

The CBPA supports the inclusion of fact-based, nutritional reporting on all ingestible cannabis products. That being said, the proposed regulatory amendments mandate an excessive amount of information be appended to a single package, which will prove difficult for containers with smaller dimensions.

Recommendation:

The CBPA recommends that Health Canada consider labelling requirements in the context of relevancy to the consumer at the time of purchase and at the time of

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<sup>1</sup> [https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,\\_c.\\_870/page-32.html?txthl=beer#s-B.02.130](https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._870/page-32.html?txthl=beer#s-B.02.130)

consumption. We wholeheartedly support a consumer's access to nutritional information around the new cannabis product forms but urge Health Canada to look at innovative ways in which this information may be made accessible (i.e.: peel-back labels, links to age-gated webpages). As such, the CBPA believes that nutritional information should be included on external packaging but should not be required on each unit within a package.

Insight:

In considering when a consumer needs to access product health and safety information (at the time of purchase or consumption), it is the view of the CBPA that nutritional information falls under the latter. With the proposed amendments looking to append an overwhelming amount of information on a single package, the CBPA believes that information pertaining to product composition (i.e.: THC content) and dosage is necessary at the time of purchase while nutritional information, such as the carbohydrate and saturated fat content, can be accessed by the purchaser through means other than physical labels. In seeking to satisfy the consumer push for more sustainable packaging requirements and ensure purchasers of the new product classes can effectively comprehend the information in front of them, the CPBA proposes Health Canada explore digital means of communication with consumers. The CPBA is pleased to provide Health Canada with examples of such upon request.

**7. What do you think about the proposal for the labelling of small containers and the option to display certain information on a peel-back or accordion panel?**

Issue:

The CBPA agrees with the proposed option to display certain information on peel-back and accordion panels.

Recommendation:

However, the CBPA recommends that Health Canada provide clarity as to the interpretation of what constitutes a ‘small container,’ (i.e.: is it a standard 12oz, 375 cm<sup>3</sup> can?) within a separate guidance document.

Insight:

As referenced earlier in this submission, we believe guidance in this regard will ensure manufacturers are not unintentionally in contravention of Health Canada requirements and it removes the risk of manufacturers proceeding with a ‘trial and error’ approach.

**8. What do you think about the proposal that the standardized cannabis symbol would be required on vaping devices, vaping cartridges, and wrappers?**

This is not applicable to cannabis beverages and does not reflect our mandate.

**9. Do you think that the proposed new good production practices, such as the requirement to have a Preventive Control Plan, appropriately address the risks associated with the production of cannabis, including the risk of product contamination and cross-contamination?**

Issue:

We believe that generally, the proposed new Good Production Practices are manageable and appropriate in scope.

Recommendation / Insight:

The CBPA has no further recommendations or insight on this issue at this time.

**10. What do you think about the requirement that the production of edible cannabis could not occur in a building where conventional food is produced?**

Issue:

It our submission that this approach will have unintended consequences on the industry writ large, and Health Canada should consider several alternative solutions; some of which are outlined below.

Recommendation:

The CBPA believes our suggestions meet public health policy objectives while still allowing for production of activated and non-activated products to co-exist within the same facility.

- I. Different levels of producers, based on product complexity and/or volume of production, have different SOPs and GMPs. As Health Canada is aware, these are internal and not necessarily regulated. The CBPA proposes that the manufacturing of new cannabis product forms be treated similarly to dairy products in accordance with the PMO (Provincial Milk Ordinance) or how the CFIA (Canadian Food Inspection Agency) polices protein processors.
- II. Licensed producers authorized to manufacture the new classes of cannabis should maintain a monthly production schedule to demonstrate when production of conventional food products are produced, when sanitation practices are being performed, and when production of cannabis-infused products occurs to validate the ability to mitigate risk. The schedules and reports should be made available to Health Canada upon request.
- III. Licensed producers authorized to manufacture the new classes of cannabis should be required to submit to lab testing of conventional food products to ensure no cross-contamination exists prior to the products entering the marketplace.
- IV. We urge Health Canada to look to the beverage alcohol industry, in which each producer holds a wine, spirits, brewery license, refresh license or a distillation license. They too must monitor for cross-contamination, separation of storage materials and abide by strict SOP practices. Per the

regulations governing their industry, they must define areas in their warehouse for each item to be stored. Further, thorough sanitation and maintenance practices, organizations must ensure all products processed with the same equipment remain consistent in quality. Specific points to consider include:

- Is the chemical concentration correct?
- Was the appropriate temperature achieved?
- Was the flow rate appropriate for the tubing size?
- What cleaning devise was used in what vessel?

Insight:

The CBPA believes the above recommendations are all attainable practices and share common principles with certain segments of the food and beverage industry through Chart Recording and Data Logging.

We understand the regulatory proposal is rooted in the prevention of cross-contamination with conventional food products, potentially sold in both domestic and international markets. Canada has enjoyed a long history of being one of the world's safest producers of human grade food, with the least incidence of illness. This is owing to comprehensive regulatory frameworks, policies and legislative actions, such as the *Safe Food for Canadians Act*<sup>2</sup>. Under the auspices of the CFIA, companies employ rigorous health standards, reporting and recall mechanisms to ensure safety.

Current food and beverage manufacturers operate under HACCP (Hazard Analysis Critical Control Point), with strict SOP (Standard Operating Procedures) and GMP

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<sup>2</sup> <https://laws-lois.justice.gc.ca/eng/acts/S-1.1/>

(Good Manufacturing Procedures) controls to mitigate against health concerns from food-borne illnesses that could harm or kill a consumer.

We know these firm SOPs and GMPs can be upheld with respect to the production of edible cannabis, cannabis extracts and cannabis topicals. We also believe these procedures and policies will effectively prevent cross-contamination, as they currently do for other hazardous food production (i.e.: anaphylaxis to peanuts and dairy). Under a harm reduction strategy, it seems punitive to require manufacturing, warehousing and distribution channels which are separate from and unique to existing standards for companies who employ already established federally and internationally accepted quality control procedures. It could also be argued that, if life-threatening allergen ingredient production can be managed safely in these facilities with no risk, there should be no additional requirements for production of cannabis-infused beverages.

**11. What do you think about the overall regulatory proposal?**

Issue:

Overall, we believe the proposed amendments to the *Cannabis Regulations* to be fair and generally well-positioned to achieve the current proposal's policy objectives. That being said, Health Canada must take extra measures to accommodate existing, qualified food and beverage manufacturers. The proposed 'separate building requirement' is prohibitive and cost-intensive, and as written, would effectively ensure that the industry be monopolized by large corporations.

Recommendation:

As outlined in the previous response, we would encourage Health Canada to explore ways in which current manufacturers can produce edible cannabis, cannabis extracts and cannabis topicals within an existing, licensed facility through the imposition of strict controls such as HACCP.

Insight:

By design, this would accomplish Health Canada’s goal of eliminating the risk of cross-contamination, all the while remaining achievable for current small to mid-size food and beverage manufacturers who wish to expand their market segments. If the proposed amendment remains, the smaller manufacturer will be forced to pass these costs on to the price of the finished goods, driving the unit price per product up substantially. This is counter-intuitive to the Government’s mission to drive down illegal market demand.

Current requirements for food and beverage manufacturers are proven to eliminate the risk of cross-contamination on a daily basis. For example, Canadian beverage alcohol manufacturer Molson-Coors produces beer and de-alcoholized beverages in the same facility on a near-daily basis. By remaining compliant with the aforementioned health and safety guidelines, they ensure the end consumer is free from risk and in receipt of the correctly-labelled product.

**12. Are there any additional comments you would like to share on the proposed regulations for the new classes of cannabis?**

Issue:

- i. We understand and support Health Canada’s mandate to ensure alcohol and cannabis products are not consumed in conjunction with one another. It is a step in the right direction to accommodate cannabis-infused, de-alcoholized beverages that would discourage consumers from mixing the two. That being said, these beverages should bare proper nomenclature to encourage consumers to choose responsibly (i.e.: wine and beer). It is also unclear if product categories for beer and wine (i.e.: “IPA” or “merlot”) will be permitted on cannabis-infused, de-alcoholized beverages.

- ii. As well, the CBPA believes that preventing alcohol brands from using their brand elements in relation to edible cannabis effectively limits known adult-use brands from participating in the market.

Recommendation:

- i. The CBPA recommends that prohibition of alcohol-related terms such as “wine” and “beer”, and other common terms used to describe adult format beverages be removed from any final regulations.
- ii. The CBPA submits that Health Canada to consider the adoption of branding elements to be permitted on labelling.

Insight:

The allowance for familiar brands and nomenclature from the beverage alcohol sector would ensure the Canadian consumer can connect the quality and reputation of a specific brand as they purchase and consume edible cannabis products. The removal of the alcohol from the finished wine and beer output still allows the remaining product to be structurally defined and legally described as a wine or a beer.

If current proposed regulations stand, a complicated description such as “fermented grape juice” or “fermented extract of cereal grains” to try to convey a simple message will be very confusing for the Canadian consumer.

With respect to inducement to youth, children are already culturally accustomed to the prohibition on alcohol. Canadian societal convention teaches children that wine and beer are not intended for underage consumption. Youth inherently know, through government controls, parental and external education and guidance, that beer and wine are not for their use; unlike potentially, a carbonated soft drink. A case can be made that there continues to be knowledge transference of the restrictions enforced on youth against consuming restricted products.

As consumers navigate their own experiences while consuming cannabis-infused beverages, it will become critical for consumers to be able to rely on brand quality, replicable result, and consistency. Many decades of research have proven consistently that consumers make purchasing decisions based on safety, quality and consistency expectations inherent in a trusted brand. This is owing to consumer awareness and availability of information. The multiple other labelling and packaging requirements would be sufficient to ensure consumers understand that they are buying a cannabis product and that there is no alcohol in that beverage. Thus, any prohibition on using a familiar brand in association with a product would appear to over-reach the intention of the regulations.

13. **Are there any additional comments you would like to share regarding the legalization and strict regulation of cannabis in Canada? For example, are there measures the Government could take to support individuals to be in compliance with the public possession limits for cannabis (i.e. 30 grams of dried cannabis "or equivalent")? Do you have views on how to minimize environmental concerns associated with packaging, while maintaining key aspects, such as child resistant packaging, that help to prevent accidental consumption?**

Issue:

The CBPA asks Health Canada provide clarity as to whether the current possession limits would prohibit new classes of cannabis to be sold in a multi-pack format.

Recommendation:

The Alliance encourages Health Canada to consider the proposed possession limits for ‘solids containing cannabis’ and ‘non-solids containing cannabis’ regarding package size. In addition, the CBPA asks Health Canada to permit multiple servings in one package that are individually scored or come with a measuring device for standardized dosing.

Insight:

Per the proposed amendments, the conversion ratio for non-solid products containing cannabis (assuming they do not exceed 3% THC content) would be 70:1. As such, the public possession limit will be 2100ml, or 2.1L. In a multi-pack format, the standard size per can is 355ml. 2100ml divided amongst 6 cans would mean 350ml per can, resulting in units smaller than the standard size. This would effectively create an undue burden to manufacturers to create a unique can size.

We suggest adjusting the conversion rate for non-solid cannabis products to allow for 5ml more product per beverage can; in parity to current allowances for beverage alcohol. This would result in a total 30ml increase per six-pack of cannabis beverages, while providing continuity and familiarity on the part of the consumer in addition to decreasing production costs for manufacturers.

## Conclusion

The Canadian Beverage Producers Alliance appreciates Health Canada's efforts to strictly regulate edible cannabis, cannabis extracts, and cannabis topicals so as to ensure public safety, encourage responsible consumption, and mitigate risk. CBPA members have long histories of providing quality and safe beverage alcohol and cannabis products to Canadian consumers and intend to call upon that experience as they set out to manufacture the new classes of cannabis products.

The CBPA is committed to working with Health Canada to accomplish our shared goals and objectives and is pleased to provide further information or insight upon request.