

TTB CLARIFIES ITS POSITION ON CANNABIS/MARIJUANA AS AN INGREDIENT IN ALCOHOL BEVERAGES



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The U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) recently published new information that clarifies the agency's position on the use of controlled substances, including marijuana, in alcohol beverages. The information was published in a Frequently Asked Question (FAQ) format, and is accessible at TTB's Web site using the following URL: <https://www.ttb.gov/faqs/a29.shtml>

Will TTB approve any formulas or labels for alcohol beverage products that contain a controlled substance under Federal law, including marijuana?

Short answer: **NO.**

TTB will not approve any formulas or labels for alcohol beverage products that contain a controlled substance under federal law. The Controlled Substances Act (CSA), codified as 21 USC §§ 801, *et seq.*, continues to list marijuana or cannabis as a Schedule 1 narcotic that serves no lawful purpose.

21 U.S.C. § 802(16), defines marijuana as all parts of the *Cannabis sativa* L. plant (and its derivatives) with certain specific exclusions. Substances derived from any part of the cannabis plant that is *not excluded* from the CSA definition of marijuana are deemed by federal law to be "controlled substances," regardless of whether such substances are lawful under State law.

Consequently, substances that currently are the subject of commercialization under state laws in more than half the country, such as tetrahydrocannabinols (THC), cannabidiols (CBD), or terpenes, are nevertheless deemed illegal under federal law and will not be approved by TTB as ingredients for any alcohol beverage regulated by the agency.

The parts of the cannabis plant that *are* excluded from the definition of marijuana in the CSA (referred to here as "hemp" ingredients) include hemp seed oil, sterilized hemp seeds, and non-resinous, mature hemp stalks. These products may be approved by TTB as alcohol beverage ingredients, subject to formulation review.

Formula approval from TTB is required before a hemp ingredient may be used in the production of an alcohol beverage product. In determining whether a hemp ingredient is allowable for use in an alcohol beverage, TTB will consult with the Drug Enforcement Administration (DEA) where appropriate and defers to the DEA in its interpretation of the CSA.¹ Specific information about DEA's position on cannabis derivatives is contained in that agency's publication [*Clarification of the New Drug Code \(7350\) for Marijuana Extract*](https://www.deadiversion.usdoj.gov/schedules/marijuana/m_extract_7350.html), which is accessible on the DEA's website at: https://www.deadiversion.usdoj.gov/schedules/marijuana/m_extract_7350.html

For alcohol beverage products containing a hemp ingredient, the product label must accurately and specifically identify the ingredient in a manner making it clear that the ingredient is not a controlled substance. Labeling statements for alcohol beverage products may not create the misleading impression that the product contains a controlled substance or has effects similar to those of a controlled substance. For example, products containing legally permissible hemp seed oil should reference "hemp seed oil" on the label, rather than "hemp oil" which is currently a controlled substance.

For more information, including requirements for lab analysis of hemp components, please contact one of the professionals in Gray Robinson's [Nationwide Alcohol Industry Team](#).

¹ TTB also consults with the U.S. Food and Drug Administration (FDA) on ingredient safety issues where appropriate. In some cases, TTB may require formula applicants to obtain documentation from FDA indicating that the proposed use of an ingredient in an alcohol beverage would not violate the Federal Food, Drug and Cosmetic Act, codified as 21 USC §§301 *et seq.*