

What Cannabinoid Regulators Think

A Dispatch from CANNRA's 2024 External Stakeholder Meeting



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The **CANNRA** Conference is a biannual event where hundreds of U.S. and international regulators share best practices in regulating cannabinoids. It's like **CannaDataCon**, but for regulators. Each year, one event is "regulators only" and the other is open to public stakeholders.

We attended the June event and came away energized and encouraged. Regulatory bodies might *seem* like faceless organizations, but they're run by humans who are doing their best for the public good. Folks like:

- **Cassandra Taylor**, Ph.D., Public Health Advisor, FDA
- **Norman Birnbaum**, Senior Public Health Advisor, FDA
- **Patricia Szappanos-Hart**, Cannabis Program Director, Tennessee Department of Agriculture
- **Steph Sherer**, Founder and President, Americans for Safe Access ¹

Data was a hot topic in nearly every panel and 1x1 conversation. Simply put, more is needed; from transaction-level data, to testing data, to socioeconomic impacts, to replacement effects vis-à-vis alcohol, and of course, the long-term health benefits and risks of the category.

Hemp was another major theme. Regulators know hemp products are meeting massive underlying market demand. They've heard that, by some estimates ², **U.S. hemp has grown to a roughly equivalent size as the U.S. medical and adult-use markets, combined.** Some are encouraged by hemp, seeing it as a complement to preexisting regulated markets. Others feel overwhelmed by the category's acceleration and are

rightly concerned about how to promote product QA/QC, age-gating, and potency limits.

Like their respective countries, states, and municipalities, each human regulator is on their own journey in learning about cannabinoids. Regulators have to balance this with other matters of public health and safety, all while trying to fit a square peg in a round hole, regulatorily speaking.

Following are our notes and conclusions from the conference. The full agenda can be found [here](#). THIS IS NOT INVESTMENT, LEGAL, OR TAX ADVICE.

Panel: CANNRA Board of Directors Assess the Current Regulatory Landscape

TL;DR - Regulators lack data on how differential regulations impact the success or failure of individual regulatory programs. They're also desperate for more data on the long-term health and economic impacts of legal cannabinoids.

- Senior regulatory leaders are encouraging state regulators to “just start somewhere” in building a regulatory framework, rather than “letting the perfect be the enemy of the good.”
- A typical regulator’s “higher ups” - the stakeholders that regulators report to - struggle to differentiate THC from CBD, let alone understand nuances like minor cannabinoids. The industry often misses this important point.
- States try to avoid mistakes learned from prior legalization efforts. For example, over 50% of municipalities in California continue to “opt out” of the legal cannabis market. Maryland learned from California’s missteps by not allowing towns to prohibit cannabis businesses, though they *can* regulate zoning.
- Regulators are constantly reevaluating their regulatory schemes based on the most recent research and what they hear from the CANNRA community. But there are still major information gaps on the long-term health and economic impacts of legal cannabis.

Panel: Regulatory Approaches to High-Potency THC Products

TL;DR - There are strong concerns about high-potency THC products in cannabis and hemp markets.

- High-potency products are consistently the highest source of emergency room visits and pose the greatest risk to underage exposure. According to [NIDA](#), there simply isn't enough information available about high THC potency.
- A standard unit of THC consumption remains elusive. It's also dependent on form factor, among other things.
- Consumers can find it difficult to differentiate between a 5mg and 50mg of consumption, or understand how minor cannabinoids will affect them.
- Regulators want to understand which products consumers purchase and use at higher fidelity. Product recalls will continue to happen, and systems need to be implemented to contextualize consumer emergencies so health professionals and regulators understand what products/dosages cause harm and eliminate them from the marketplace.
- Consumer education requires more than just the efforts of operating companies. They lack the capital to fund education while operating in highly competitive markets and under onerous tax regimes.

Panel: Improving Product Safety – Future Directions in Lab Testing and Current Good Manufacturing Practices

TL;DR - The industry lacks robust quality management covering the entire product lifecycle, from raw materials to finished goods. Uniform standards are needed.

- A full Quality Management System (“QMS”) contains Quality Assurance (“QA”) and Quality Control (“QC”) functions. QA is *proactive* through a product's lifecycle, while QC is *reactive*, only related to final products.
- Simply testing the end product ignores quality issues from raw material inputs like cannabinoid extracts or their precursors, hence the need for a full QMS.
- The vast majority of state regulators do not see, let alone approve, a product before it hits the market. Accreditation bodies could assure regulators and consumers with “fit-for-purpose” testing standards tailored to each product type.

- Current Good Manufacturing Practices (CGMP) are expected to proliferate at the state level over time. Those who fail to adapt will be pushed out of the market.

Panel: What is Appealing to Youth? Impacts of Packaging, Labeling, and Advertising Policy

TL;DR - Certain of the industry's marketing practices, a lack of regulation, and proliferation of highly potent products pose significant risks, particularly to youth.

- Youth are more susceptible to the appeal of cannabis advertising, packaging, and flavored products (e.g., those products resembling candy), leading to accidental or unauthorized product consumption by youth. This is true in both cannabis and hemp.
- The lack of standardization across jurisdictions, coupled with the absence of age-gating on social media platforms, enables the targeting of youth through online advertising, reminiscent of the disaster that was [Juul](#).
- High-potency cannabis products, like concentrates and edibles, raise concerns about overconsumption and potential adverse effects, including psychosis and cannabis use disorder. This is of particular concern for children whose brains are not fully developed.
- The industry needs standardized “units” to quantify and convey consumption levels rather than just milligrams of THC.

Panel: THC Cannabinoid Beverages – Is There a Case for a Separate Regulatory Pathway?

TL;DR - Navigating cannabis regulation requires a comprehensive, safety-focused approach that balances diverse interests, addresses emerging products, and paves the way for responsible legislation through consensus-building and harm-reduction strategies.

- Concerns over potent and novel cannabis products, particularly youth access and potential impairment in situations like driving, must be addressed. Products with 50mg per dose and higher are especially risky.

- Beverages need clearly defined standards and harm reduction approaches tailored to various cannabinoids and product formats.
- The industry needs to embark on a long-term, multi-stakeholder effort to build consensus, develop comprehensive training and compliance measures, and establish a regulatory framework distinct from the alcohol and tobacco industries. The average bill takes 10 years to pass. Even after you have a consensus, it's a long process.
- Learnings from Minnesota's hemp THC beverage market: mandatory and specialized training for sales staff, compliance checks throughout the supply chain, and protocols for how to avoid overserving and what to do if someone is overserved. To be maximally effective, these programs should be tailored to cannabis and thus treated differently from alcohol or tobacco.

Panel: Charting a Regulatory Path Forward for State-Regulated Cannabis and Cannabinoid Hemp

TL;DR - A plethora of live regulatory experiments are already taking place across the U.S. Key issues include taxes, consumer confusion over products, and fears of one market undermining the other.

- State regulators consider the 2014 Farm Bill a pilot program. They feel overwhelmed by hemp's acceleration and are encouraged by the movement towards "one policy, one regulator" on licensed cannabis and hemp.
- Regulators want to avoid customer confusion between natural and synthetically-derived cannabinoids. The problem isn't selling an intoxicating product. The problem is confusing the consumer.
- Proposals called for all intoxicating cannabinoids to be age-gated, regardless of source plant (i.e., hemp vs. marijuana).
- Regulators in "legacy states" like California and Colorado are concerned that hemp products will undermine efforts to stand up their cannabis economies.
- As it concerns the Department of Agriculture, their standard practice is to regulate agricultural products, not finished goods.

Panel: Cannabis Rescheduling in the U.S.

TL;DR - Rescheduling is a milestone, but doesn't address interstate commerce, existing tax liabilities, or FDA approval. There are many reasons to celebrate, but the fight is far from over.

- Removing 208E is not tax relief. It provides tax parity for licensed operators. Importantly, rescheduling doesn't eliminate past 280E tax liabilities without additional legislation.
- Interstate commerce is only possible by carving out specific pathways under the FDA Controlled Substances Act.
- Descheduling was always an unlikely path. It would have required the FDA to prove there was no likelihood of abuse.
- Tax parity, as the primary narrative around rescheduling, ignores the protections and rights this grants to medical patients.
- Over 28,000 public comments have been submitted to the DEA.³

Panel: Cannabis and Hemp Regulations in Tribal Nations

TL;DR – An estimated 100 of the 574 federally recognized tribes work with cannabis currently. They want to implement regulatory structures that align across tribes and avoid the mistakes that certain states made.

- Tribes primarily focus on using cannabis to heal their communities rather than developing commercial markets.
- The gaps between state and tribal laws leave uncertainties around which law enforcement agencies are responsible for management and enforcement on reservation lands.
- An incident in 2021 highlighted how gaps in enforcement allow illegal operations operated by foreign nationals to proliferate on reserve land.
- Panel: Charting a Regulatory Path Forward for State-Regulated Cannabis and Cannabinoid Hemp in the U.S.

- 1 Today's legal U.S. industry wouldn't exist without the people who have championed safe access for medical patients. [Americans for Safe Access](#) are carrying that torch today. The industry also owes much to the LGBTQA+, please listen to Ellen Scanlon's wonderful podcast [here](#) for more detail.
- 2 U.S. National Cannabinoid Report - Whitney Economics
- 3 As of July 10, 2024.

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