

Michael Boutros
California Department of Public Health
1615 Capitol Ave
Sacramento, CA 95814

April 18, 2025

Dear Mr. Boutros:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for the proposed Serving Size and Age for Industrial Hemp regulation, as required in the California Code of Regulations, title 1, section 200(a)(1) for major regulations. Proposed text of the regulations were not submitted, therefore comments are based solely upon the SRIA and other publicly available information.

The proposed regulations would require that industrial hemp final form food products, including food, food additives, beverages, and dietary supplements, intended for human consumption must: (1) contain no detectable total tetrahydrocannabinol (THC) per serving; (2) have no more than five standard-sized servings per package; and (3) not be offered or sold to a person under 21 years old. The proposed regulations would make permanent the DPH-24-005E emergency regulations for serving size, age, and intoxicating cannabinoids for industrial hemp that went into effect on September 23, 2024. The proposed regulation would impact the 115 licensed California hemp manufacturers, of which CDPH estimates 100 would be eliminated due to the proposed regulations as they would no longer be incentivized to remain in the hemp market as a result of the increased costs of producing food and beverage products with no detectable THC.

As a result, the SRIA estimates that total economic impacts would result in a loss of \$173 million in hemp market revenues in the first 12-month period following full implementation in 2025 for manufacturers, wholesalers, retail stores and delivery services, and decrease by \$897 million in the five-year period following full implementation (2025-2029). Manufacturers that remain and comply with the regulation would incur costs of reformulating their products, obtaining new equipment, designing new standard operating procedures to accurately calculate and produce the compliant number of THC servings and serving size, and revising labeling and packaging. The costs of reformulating were not quantified, while the cost for revised packaging would be about \$20,000 per business or \$1 million in total for the 50 businesses CDPH estimates would need to comply. The benefits of the proposed

regulations were not quantified but were discussed qualitatively as aiding in protecting the public from harm that may be caused by hemp-derived food products, especially to underage consumers. CDPH did not include a fiscal impact analysis in their SRIA.

Finance generally concurs with the methodology in the SRIA, with the following exceptions. First, the SRIA must include a fiscal impact analysis on how the proposed regulation impacts state and/or local government funding and enforcement and compliance costs. In addition, the SRIA should discuss and quantify any possible state revenue impacts, such as losses in sales tax revenue that may result from the business revenue losses. Second, the SRIA must clarify how many hemp manufacturers are estimated to comply with the proposed regulation. The SRIA states that 100 of the 115 manufacturers are assumed to be eliminated, while it also states that 50 businesses are estimated to need to comply with packaging redesign. The SRIA should clarify the number of manufacturers that would remain active in California and would be required to comply with the proposed regulations. Finally, the SRIA should include a clear description of the total cost impacts. Currently, the SRIA quantifies the total cost as equal to the revenue losses from the elimination of manufacturers, however, the SRIA should also include the total compliance costs for the manufacturers that will need to comply with the proposed regulation (separate from the revenue losses, but as part of the total economic cost analysis, without netting).

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Somjita Mitra

Digitally signed by Somjita Mitra
Date: 2025.04.18 17:09:08 -07'00'

Somjita Mitra
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Dr. Erica Pan, Director, California Department of Public Health