



Amanda Brown
California Department of Food and Agriculture
1220 N St.
Sacramento, CA 95814

February 8, 2018

Dear Ms. Brown:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and the summary (Form DF-131) for proposed CalCannabis Cultivation Licensing Program regulations, as required in California Code of Regulations, title 1, section 2002(a)(1). As proposed regulations were not submitted with the SRIA, these comments are based on the SRIA, our understanding of Proposition 64, your SRIA submitted for medical cannabis cultivation (January 2017), and the Medicinal and Adult Use Cannabis Regulation and Safety Act (Senate Bill 94, 2017).

The SRIA describes the impacts of proposed regulations that set conditions for 16 types of cultivators plus nurseries and processors to supply the medicinal and adult use cannabis market an estimated 1.3 million pounds of cannabis, with a wholesale value of around \$2 billion. As discussed with Finance, these numbers assume full implementation of the proposed regulations, along with the implementation of proposed regulations for state tax compliance, manufacturing, testing and safety, and retail distribution, rather than only assuming current regulations in place. State regulatory conditions include compliance with applicable labor, environmental, and safety laws, along with track and trace requirements for the product, with associated costs estimated to be from around \$40 per pound for small indoor growers to almost \$300 per pound for outdoor specialty cottage growers. Payment of local fees and taxes (ranging from \$50 to more than \$300 per pound), and state taxes of \$152.40 per pound would also be required, yielding total state cultivation tax revenues of around \$200 million. Despite these costs, the wholesale price cultivators receive is expected to decline by around 1.5 percent to \$1,600 per pound due to the decreased risk of enforcement actions by state and local government, which is estimated to be worth from \$100 to over \$400 per pound depending on cultivator type. Although there is still risk from federal enforcement, as long as the costs from compliance remain less than the benefits of reduced risk and steady demand, cultivators will choose compliance over remaining in the grey market. Consumers also benefit from having safer, more consistent products to consume.

Finance generally concurs with the methodology used to estimate economic impacts of licensed cannabis cultivation under proposed regulations, with the exception of the modeling of costs of local fees and taxes. The tradeoff analysis of whether businesses choose to comply with state regulations must include the concurrent choice of where to locate: cultivators will only comply if local fees and taxes are relatively low. The analysis assumes that a sufficient number of businesses do comply and are able to supply the estimated 1.3 million pounds to satisfy demand, but ignores the likely geographic concentration of those cultivators. Finance regulations require that these impacts are discussed to the extent possible, and the existing data in the SRIA show that high-cost jurisdictions like Santa Barbara are unlikely to have any cultivators, while low-cost jurisdictions like Humboldt are expected to get a greater share of production.

We appreciate the efforts you made to contact affected stakeholders, and to gather information about the costs, benefits, and market conditions in the cannabis industry. We also appreciate the willingness of the agency to engage us early in the SRIA process.

These comments are intended to provide sufficient guidance to outline prospective revisions to the SRIA. The SRIA, a summary of Finance's comments, and any responses must be included in the rulemaking file that is available for public comment. Finance understands that the proposed regulations may change during the rulemaking process. 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,

A handwritten signature in blue ink, appearing to read "Irena Asmundson".

Irena Asmundson
Chief Economist
Department of Finance

cc: Ms. Panorea Avdis, Director, Governor's Office on Business and Development
Ms. Debra Cornez, Director, Office of Administrative Law
Mr. Kevin Masuhara, Deputy Secretary, Department of Food and Agriculture
Mr. Richard Parrott, Director, CalCannabis, Department of Food and Agriculture
Mr. Duncan MacEwan, ERA Economics, LLC