

Comments submitted by the Department of Finance regarding a Standard Regulatory Impact Analysis of proposed hemp sampling regulation, sections 4935, 4940, 4941, 4942, 4943, 4944, 4945, 4946, 4950, and 4950.1 in Title 3 of the California Code of Regulations

September 14, 2020: Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for the proposed regulations to Establish Timeframes, Procedures, Methods, and Confirmation for Industrial Hemp Planting, Sampling, Laboratory Testing, Harvest, and Destruction, as required in California Code of Regulations, title 1, section 200(a)(1) for major regulations. Finance agrees that the proposed regulations meet the major regulations threshold based on the impacts calculated. The proposed regulations establish sampling and testing requirements for industrial hemp in California, starting in October 2020. The regulations require county commissioners to collect industrial hemp samples and accredited laboratories to conduct the testing. Crops that contain more than 0.3 percent of tetrahydrocannabinol must be destroyed under the oversight of the county commissioner. If the proposed regulations are not implemented, an estimated 525 affected registered growers, with 24 acres grown on average, will not be allowed to legally harvest their crop, resulting in around 12,500 acres of hemp crop destroyed. With the regulations in place, the SRIA assumes that 15 percent of crops will be destroyed, 35 percent will remain unsold, and approximately 50 percent will be sold. Assuming a gross revenue of around \$13,000 per acre, the proposed regulations will lead to a gross revenue of \$300,000 per grower in the first year following full implementation in October 2020. Statewide, grower revenue will increase by around \$81 million. At the same time, affected entities are projected to incur direct costs of over \$2 million in registration, sampling, and testing fees for growers and accreditation and registration costs for laboratories. Impacts to state and local governments are estimated to include around \$6 million in sales tax revenue and \$472,500 in registration fee revenue. State governments are projected to incur administrative costs of \$67,000 while county administrative costs are estimated at \$69,000 in the first year of implementation. Finance generally concurs with the methodology used to estimate the impacts of proposed regulations, with two exceptions. First, CDFA should clarify which costs and benefits are expected to be ongoing for the lifetime of the regulation. Currently, the SRIA quantifies impacts of the first year after full implementation, and assumes that direct costs and benefits will remain the same for the next five years. However, some impacts such as the benefits from first-year crop destruction savings, with a total estimated statewide impact of \$5.1 million, are only generated in the first year.

Second, CDFA identifies state fiscal costs that will require utilization of an existing vacant position to develop forms and templates, as well as establish a review and approval process for laboratories interested in conducting testing. The SRIA should break out and align estimated state costs with specific provisions in the regulations that drive anticipated workload.

CDFA response to comments submitted by the Department of Finance regarding a Standard Regulatory Impact Analysis of proposed hemp sampling regulation, sections 4935, 4940, 4941, 4942, 4943, 4944, 4945, 4946, 4950, and 4950.1 in Title 3 of the California Code of Regulations

The Department of Finance (DoF) generally concurs with the methodology used by CDFA in the standardized regulatory impact assessment (SRIA) that was prepared to estimate the impacts of the proposed regulations to Establish Timeframes, Procedures, Methods, and Confirmation for Industrial Hemp Planting, Sampling, Laboratory Testing, Harvest, and Destruction. However further clarification was requested to outline which costs and benefits were expected to be ongoing for the lifetime of the regulation, and the anticipated workload to the state of California to utilize an existing vacant position to develop forms and templates, as well as establish a review and approval process for laboratories interested in conducting testing.

As requested, CDFA further extrapolated the total recurring costs to comply with the regulation and the total anticipated reoccurring economic benefits to the state.

Recurring Total Costs and Benefits in Dollar Amounts – Total Costs

The recurring costs of the regulations annually is estimated to range between **\$4,487,501** and **\$7,870,821**. The aggregated cost includes direct costs to growers for sampling, testing,

Industry	Estimated Costs
Registered Growers	\$4,030,209– 7,284,637
Testing Laboratories	\$388,454-517,346
Commissioners	\$68,838
Total	\$4,487,501 – 7,870,821

harvest and/or destruction, accreditation and registration costs for testing laboratories, training costs to commissioners, and staffing costs to CDFA. CDFA assumes training of county staff to conduct sampling will be yearly. The accreditation and registration costs to testing laboratories are a 2-year and yearly cycle respectively. Thus, the accreditation cost ranges between \$5,000 to \$6,740 a year. The first-year cost to CDFA included a limited term 24 month Environmental Scientist, this cost is not expected to continue after the first two years.

Recurring Total Costs and Benefits in Dollar Amounts – Total Benefits

Using the estimated of the benefits to the state of California due to these regulations, it is estimated that the recurring benefits of these regulations will result in a total economic benefit between **\$30,011,541** to **\$305,795,958**. This includes potential gross revenue for growers and registration and renewal fees to be collected by CDFA. The first-year benefit included a crop destruction savings, however when the regulations are in place the crops will no longer be at risk of complete destruction due to lack of regulation.

Benefits	Estimated Impact
Registration Fees	\$1,019,702
Gross Revenue	\$22,748,520 – 239,143,465
Income Increase	\$6,243,319 – 65,632,791
Total Benefits	\$30,011,541 – 305,795,958

In response to the request by DoF to break-out and align estimated state costs with specific provisions in the regulations that drive anticipated workload, CDFA has prepared the following table to outline the workload expected. The table list the necessary tasks as per the regulation, number of times per year these tasks need to be done and the time it will take to complete them. The total number of man hours is estimated at 1,785.5 which is equivalent to one full time position. The number of working hours for a full-time position is based on 40 hours per week totaling 2,080 hours per year, minus holidays, vacations, training, sick days, etc. that could occur during that timeframe.

Task	Number of Tasks	Hours Per Task	Total Hours Required
develop and maintain templates of: <ul style="list-style-type: none"> • planting report (3 CCR Section 4935(b)) • pre-harvest report and sample analysis request form (3 CCR Section 4940(b)(4)) • laboratory application (3 CCR 4943(g)) • harvest report form (3 CCR Section 4946(a) (2)) • destruction plan and destruction report (3 CCR Section 4950(f)) 	14	4	56
<i>14 transactions per year</i>			
Review testing laboratories applications including DEA registration certificates, ISO/IEC 17025 certificates of accreditation, and standard operating procedures for THC testing to ensure compliance with state regulations. Issue proof of approval, testing laboratories and maintain list of approved testing laboratories (3 CCR Section 4943).	60	16	960
<i>60 transactions per year</i>			

<p>Notify USDA of non-compliant crops and provide a disposal record for those plants and materials (3 CCR Section 4950(g)).</p> <p>135 transactions per year</p>	135	2.5	337.5
<p>Respond to inquiries from industry, county agricultural commissioners, and the public regarding laboratory registration (3 CCR Section 4943).</p> <p>20 transactions per month</p>	240	1	240
<p>Develop outreach material and provide technical training for county agricultural commissioners and industry personnel regarding laboratory registration, sampling, testing, and destruction for industrial hemp (3 CCR Section 4935-4946, 4950-4950.1).</p> <p>12 transactions per year</p>	12	16	192
Total			1,785.5