

October 30, 2023

Senator John Cooney
Chair, Senate Subcommittee on Cannabis

RE: Repeal - July 19th, 2023 Office of Cannabis Management Emergency Regulations

Dear Chair Cooney and Members of the Joint Hearing,

On behalf of CBD Kratom, I write to advocate for the future of the New York hemp market by asking the New York State Senate to repeal the emergency regulations issued by the Office of Cannabis Management (OCM) on July 19th, 2023. These regulations amend Part 114 of the Official Compilation of Codes Rules and Regulations of the State of New York to limit the retail sale, advertisement, and production of hemp products in New York State.

With over **60 locations nationwide**, a knowledgeable and passionate team of almost **500 employees, and over 600 cannabis products available for sale**, CBD Kratom provides goods and services suited to help consumers thrive. Of these 60-plus locations, over a dozen are in New York City. It is because of our involvement in New York State that CBD Kratom values a safe and accessible NYS hemp market; and therefore condemns the Office for instituting regulations far removed from the 2018 Farm Act, the needs and buying behaviors of our consumers, and the financial stability of our business.

In 2018, the US Congress passed the Farm Bill redefining hemp as cannabis with no more than 0.3 percent dry weight delta-9 THC. Following former President Trump's signage of the Farm Bill, millions of doors opened for future research, sale, and consumption of hemp products including but not limited to CBD, Delta-8 THC, CBN, and CBG.

Despite hemp's federally legal status, the OCM abused its regulatory authority to limit consumer access in New York State. According to the amended Section 114.8 subsection (b) of the amended Cannabis Law, the State restricts the sale of hemp products exceeding "10 milligrams total THC per package, with no more than 1 milligram total THC per serving." In theory, these restrictions are regulations; in practice, they are prohibitions.

5 milligrams per serving, let alone 1 milligram per serving, does not provide enough THC for the average consumer to become impaired. CBD Kratom finds that many of its consumers are not impaired after ingesting 10 milligrams of THC products. Through research on its consumers, CBD Kratom finds that most patrons prefer products with 10 milligrams of THC per serving. 10-milligram products allow consumers to use the product without impairment or consume more in a multi-serving package if higher levels of resistance to impairment are present. Under the new

regulations of the Cannabis Law, thousands of consumers would go without the sometimes-necessary benefits of CBD Kratom's products, thus hurting consumers and retailers alike. Because of this, many consumers will seek illegal alternative methods of acquiring hemp products, putting themselves at risk of ingesting adulterated substances.

New York State led the booming cannabis industry with the Marijuana Regulation and Taxation Act (MRTA), the same bill that instituted the OCM. Among a plethora of other reasons, the State Legislature signed the MRTA to obstruct malicious actors from selling adulterated cannabis products and to build the foundation for one of the country's premier cannabis markets. Prohibition has never been a value of the MRTA or any of the OCM's prior work toward this goal. CBD Kratom fears that these emergency regulations will act as a catalyst for increased black market sales of hemp products, therefore decreasing consumer protection oversight. OCM cannot control the demand for hemp products, but it can make quality supply accessible for all consumers over 21 years of age.

Last, CBD Kratom worries about the direct impacts these emergency regulations have on NYS hemp retailers. THC per package and serving limits will prove to be detrimental to the operations and longevity of cannabis retailers. After conducting an inventory of its hemp products, CBD Kratom finds that it would have to recall several hundred of its products to comply with the emergency regulations. Pulling this number of products from its stores could have business-ending effects on CBD Kratom locations all over New York State. CBD Kratom's viability does not withstand without the products restricted under the emergency regulations. CBD Kratom estimates **a loss of over 22% of its revenue** following the emergency regulations. This loss would lead to the closure of most, if not all, of its New York retail locations; along with the **loss of approximately 75 employees, dozens of which identify as BIPOC.**

In addition, CBD Kratom finds that the cost to repackage current products to comply with the emergency regulations would instill financial and economic costs. Packaging waste is a rampant issue in New York landfills and incinerators. CBD Kratom wishes not to further contribute to this environmental hazard or be negatively affected as a business should the New York State Legislature limit producers' versatility regarding packaging.

It is because of these reasons that CBD Kratom urges the New York State Legislature to take the following action steps to improve the statewide hemp industry:

1. Communicate the legal, social, and public health-related implications of the emergency regulations instituted by the Office of Cannabis Management Jul 19, 2023 to OCM.
2. Pass integral legislation repealing the emergency regulations and regulating hemp products with over 1 milligram of THC per serving and 10 milligrams per package in a

manner that is accessible, equitable, and safe for all New York consumers over the age of 21.

3. Continue to support the hemp industry through mindful legislation that serves the best interests of industry, consumers, and the general New York State population.

Finding a balanced approach that addresses legitimate concerns about impairment while not overly restricting access to hemp products, as Big Marijuana may be striving for behind a veil of consumer safety, is essential for the industry's growth and for avoiding further prosecution of those negatively affected by the War on Drugs. Collaboration between industry stakeholders and regulatory bodies will cultivate effective regulations that promote safety, consumer choice, and the continued development of a responsible and inclusive cannabis market in New York State.

Thank you for your consideration,

Allie Faver
Counsel, CBD Kratom