



**Bureau of Community Health Services
Division of Food and Lead Risk Assessments**

For Immediate Release
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Letter to Industry Regarding Hemp Products as Ingredients in Food and Beverage Products

The South Carolina (SC) Department of Health and Environmental Control (DHEC) is sharing the following information with industry regarding the **manufacture, distribution, and sale** of food and beverage products containing hemp-derived products as ingredients in the SC marketplace.

The U.S. Food and Drug Administration (FDA) prohibits the introduction into interstate commerce any food to which Tetrahydrocannabinol (THC) or Cannabidiol (CBD) has been added. **Therefore, the following hemp products are NOT APPROVED to be added to food or beverage products:**

- Viable, non-sterilized hemp seeds, raw hemp leaves, and raw micro greens, and any other raw, unprocessed form of hemp biomass as they are considered “plant material” and may not be possessed without a Grower or Processor License
- Pure CBD Isolate
- Delta-8 THC, Delta-9 THC, or Delta-10 THC
- THC-0 or any other derivative
- “Full spectrum” whole-plant extract (i.e. “full spectrum hemp oil/extract” from biomass) if it includes health claims, or bears any sort of declaration of THC or CBD
- Any hemp product that is NOT manufactured in a food-grade establishment inspected under GMP or cGMP regulations.
- Any hemp or hemp-derived product that promotes its medical or health benefits

The FDA evaluated three Generally Recognized As Safe (GRAS) notices for hemp products and found that the use of such products **as described in the notices** is safe. **Therefore, the following hemp products may be legally marketed in human foods and are APPROVED to be used as ingredients in food and beverage products:**

- Hulled hemp seed ([GRAS Notice GRN No. 765](#); [FDA Response Letter](#)),
- Hemp seed protein ([GRAS Notice GRN No. 771](#); [FDA Response Letter](#)), and
- Hemp seed oil ([GRAS Notice GRN No. 778](#); [FDA Response Letter](#))

DHEC is aware of the growing public interest in using “full spectrum hemp oil/extract containing no more than 0.3% Delta-9 THC” as an ingredient in food and beverage products. Please be advised that industry may use **“full spectrum” whole-plant extract (i.e. hemp oil/extract from biomass)** as an ingredient in food and beverage products if the hemp-derived ingredient meets the following requirements:

- **A “full spectrum” hemp oil or extract from biomass** contains the naturally occurring ratios and array of phytonutrients found in hemp.
- Using a full spectrum hemp oil as an ingredient must be referred to in the ingredients list on the food or beverage label as “Full Spectrum Hemp Oil” or “Full Spectrum Hemp Extract.” The label **may not contain health claims** and **may not bear any sort of declaration of “THC”, “CBD”, or “Delta-9” products or isolates.**
- When companies in South Carolina receive their “full spectrum hemp oil/extract” from their approved supplier, it must contain no more than 0.3% Delta-9 THC, as evidenced by Certificates of Analysis (COAs). The use of concentrates or “work in progress hemp oil from biomass”



containing more than 0.3% Delta-9 THC, is illegal. **Companies may NOT use “crude” hemp-derived oil, “work in progress” hemp oils over 0.3% Delta-9 THC, non-food grade oils, or dilute hemp oils containing an illegal amount of THC (> 0.3%) to a “legal” level.** Hemp products containing more than the legal limit of THC are no longer considered to be hemp but are a Schedule I Drug. **Hemp products that contain more than 0.3% THC are NOT ALLOWED to be possessed by anyone in South Carolina, and they are NOT ALLOWED to be introduced into foods or beverages.**

All hemp products used as ingredients in food or beverage products must be **human-food grade** and **received from an approved supplier**. An “approved supplier” complies with applicable Good Manufacturing Practices (GMPs) as evidenced by paperwork of the hemp product ingredient supplier’s inspections by the state’s food safety regulatory authority (i.e., State Department of Agriculture, State Department of Public Health, or other means of regulatory oversight that has been **approved by the state’s food safety regulatory authority**).

All foods and beverages containing hemp products that are manufactured, distributed, or sold in SC must meet **ALL of the following requirements to be considered for final approval by DHEC:**

- The labels, packaging, and advertising of finished food or beverage products containing approved hemp products as ingredients may not contain dosage instructions (i.e., “10 MG THC”) as this gives the impression not of a food or beverage, but of an illegal drug, or a food or beverage that has been poisoned by THC.
- Labels and packaging shall not contain references to “THC”, “CBD”, or “Delta-9” products, or isolates, as this implies the product is no longer a food item, but a drug and is unlawful; except, the following optional statement may be included on product labels and/or packaging, “Full Spectrum Hemp Oil/Extract used is legal per USDA Farm Bill and contains 0.3% Delta 9 THC or less.” This is not required since the hemp product ingredient added is at 0.3% or below, so is legal.

IMPORTANT: Any permits issued by DHEC for manufacturing, distributing, or selling food or beverage products containing **“full spectrum hemp oil/extract”** as an ingredient are for **intrastate (within SC) sales only** and permittee should engage other state regulatory authorities for specific regulations governing each individual state. **DHEC permittees engaged in interstate commerce are subject to federal (FDA) inspection, registration, and jurisdiction.**

Section IV (D) of SC Regulation 61-32, and Section II (E) of SC Regulation 61-36, states that “the Department may impound, condemn, forbid the sale of, or cause to be removed or destroyed, any food that is determined to be in violation of this regulation, unwholesome, contaminated, adulterated, misbranded, or from an unapproved source.” Therefore, **failure to comply with the requirements outlined in this “Letter to Industry Regarding Hemp Products as Ingredients in Food and Beverage Products” will result in regulatory action being taken**, including without limitation, hold orders being placed on non-compliant product, permit revocation, embargo, and further legal actions, including civil penalties as allowed by [South Carolina Code of Laws Section 44-1-150](#).

While DHEC’s goal is to educate while we regulate this growing niche of manufacturers and distributors of foods and beverages containing hemp-derived products as ingredients, our obligation under the requirements of both federal and state law is to remove from commerce all food and beverage products containing non-conforming hemp-derived products as ingredients. Therefore, it is imperative for industry to understand that once they place these types of products into the

marketplace, they then have a responsibility to comply with state laws and regulations, as well as federal law and regulations for products in interstate commerce. DHEC looks forward to cooperating with industry to bring all foods and beverages in South Carolina into compliance with these requirements.

Industry wishing to manufacture, distribute, or sell food or beverage products in SC must obtain and maintain all applicable permits, licenses, registrations, and certificates. Visit [this Clemson webpage](#) for guidance on food safety regulatory authorities in SC.

For more guidance from the FDA, please visit the *FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)* webpage at <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd>; Questions 10-14 in the [Questions and Answers section](#) specifically address FDA's position on cannabis derivatives being used in food (which includes beverages). Additional information may also be found in the *FDA Regulation of Dietary Supplement & Conventional Food Products Containing Cannabis and Cannabis-Derived Compounds* document at <https://www.fda.gov/media/131878/download>.

The United States Postal Service (USPS) revised Publication 52, *Hazardous, Restricted, and Perishable Mail*, to add a new section 453.37, "Hemp-based Products," which provides new mailing standards for products derived from cannabis and industrial hemp. To access the USPS's *Publication 52 Revision: New Mailability Policy for Cannabis and Hemp-Related Products*, please visit https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm.

If a firm would like to continue their pursuit of manufacturing food or beverage products containing hemp products as ingredients, without the strict oversight of state and federal food regulatory authorities, they should consider the Industry Circular provided by the US. Alcohol and Tobacco Tax and Trade Bureau (TTB), *Hemp Ingredients in Alcohol Beverage Formulas*: <https://www.ttb.gov/industry-circulars/ttb-industry-circulars-19-1>.

For the South Carolina Department of Agriculture's (SCDA) stance on hemp-derived products being used as ingredients in human food, please visit <https://agriculture.sc.gov/scda-regulators-to-notify-industry-regarding-cbd-and-hemp-in-food-and-feed-products-in-the-market-place/>, and also read the *SCDA Hemp Products in Human Food Quick Guide* at <https://agriculture.sc.gov/wp-content/uploads/2022/12/HempCBDFoodGuide2022.pdf>.