



January 29, 2020

Docket Clerk

Marketing Order and Agreement Division, Specialty Crops Program, AMS

United States Department of Agriculture

1400 Independence Avenue SW, STOP 0237

Washington, DC 20250-0237

Re: Establishment of a Domestic Hemp Production Program; Interim final rule with request for comments; Docket No. AMS-SC-19-0042 SC19-990-2 IR; Document Number: 2019-23749

To Whom It May Concern:

On October 31, 2019, the U.S. Department of Agriculture ("USDA") published in the *Federal Register* a notice regarding its Interim Final Rule on the Establishment of a Domestic Hemp Production Program as well as the launch of a docket to receive public comments. FMI thanks the USDA for the opportunity to submit feedback on this important topic.

As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain – including retailers that sell to consumers, producers that supply the food, and the wide-variety of companies providing critical services – to amplify the collective work of the industry. FMI is a champion for the food industry, from independent operators to the largest national and international players, and the issues that make a difference to our members' fundamental mission of feeding and enriching society. The reach and impact of our industry is extensive, ultimately touching the lives of over 100 million households in the United States and representing an \$800 billion industry with nearly 6 million employees. www.FMI.org

As you know, Public Law 115-334 – the Agricultural Improvement Act of 2018 (2018 Farm Bill) – redefined "hemp" and amended the Controlled Substances Act, removing hemp and its derivatives from the list of controlled substances. Furthermore, the 2018 Farm Bill established hemp as a legal agricultural commodity and authorized the production and sale of hemp and hemp-derived products in the U.S., consistent with

other laws. FMI commends the USDA for issuing an Interim Final Rule, which creates a federal regulatory framework for domestic hemp as set forth in the 2018 Farm Bill.

The interim rule is intended to expand production of domestic hemp to help meet the growing consumer demand for hemp and hemp-derived products. However, a vast majority of the consumer demand exists for hemp-derived cannabidiol (CBD), which remains in regulatory limbo at the Food and Drug Administration (FDA). Despite the abundance of CBD products currently in the marketplace, FDA maintains that CBD may not be legally marketed as an ingredient in food or supplements. Hemp growers and producers are poised to make significant economic gains from hemp and its derivatives, but only if the federal regulatory system ensures the lawful and safe use of these products.

Although USDA's interim final rule provides farmers with more clarity regarding hemp production, the FDA's lack of clarity with respect to regulating hemp-derived CBD in manufactured products has left many hemp farmers and their customers in a regulatory gray zone. The lack of federal standards for the use of CBD in food, dietary supplements and cosmetics, coupled with the current patchwork of state laws regulating CBD products, has created mass confusion throughout the supply chain and marketplace. Moreover, the absence of a clear pathway to market for these products means consumers currently face a variety of risks, including unsubstantiated health and benefit claims, a lack of standardization in product labeling and packaging, and even products that do not contain the ingredients they purport to contain. The regulatory ambiguity and safety concerns surrounding hemp-derived CBD will continue until FDA provides additional clarity and guidance governing the sale, safety and marketing of these products.

Having said that, it is important to recognize that hemp is much more than a source of CBD. As the interim final rule acknowledges, "[h]emp is a commodity that can be used for numerous industrial and horticultural purposes including fabric, paper, construction materials, food products, cosmetics... and other products." Indeed, there are pathways to market for other hemp-derived food ingredients, which continue to generate enthusiasm among our retailers' customers in the U.S. Currently, hulled hemp seed, hemp seed protein powder and hemp seed oil meeting certain specifications can lawfully be used in foods following FDA's evaluation of their GRAS (generally recognized as safe) notices. These ingredients can be used as a source of protein, carbohydrates, oil, and other nutrients in beverages, soups, dips, spreads, sauces, dressings, plant-based alternatives to meat products, desserts, baked goods, cereals, snacks and nutrition bars.

In conclusion, FMI sees the regulatory challenges surrounding the legal and appropriate sale of hemp-derived CBD products as a critically important policy priority for a strong

and sustainable hemp industry. With that in mind, we encourage the USDA to continue shining a spotlight on the many ways other hemp derivatives can be used lawfully. On behalf of the food industry association, FMI appreciates the opportunity to provide these comments.

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If you have questions about these comments or would like additional information, please feel free to contact me at pmatz@fmi.org or (202) 452-8444.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Matz", is displayed on a light gray rectangular background.

Peter Matz
Director, Food & Health Policy