U.S. Hemp Roundtable

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To whom it may concern:

The U.S. Hemp Roundtable, the hemp industry's leading national business advocacy organization, involves more than 75 companies, representing every link of the hemp food chain, from seed to sale, as well as all of the industry's leading national grassroots organization. We appreciate the opportunity to comment on New Mexico's temporary hemp rules, found at Title 21, Chapter 20, Part 6, pursuant to the Hemp Manufacturing Act, Chapter 76, Article 24, Section 1, et seq.

We commend the Department for its outstanding work on developing the temporary rules, which will advance the interests of New Mexico's hemp farmers and small businesses. We offer the following recommended adjustments.

Our first and foremost question is the way the temporary rule reads: It appears to apply only to products produced in NM hemp facilities. We would appreciate any clarification in the final rules. Further, here are our comments and suggestions on the remainder:

- We recommend that definition of "hemp finished product" at Section 21.20.67 (Q) be amended to say that it means "a hemp product that **produced in a hemp facility in New Mexico** that is intended for retail sale…"

- **General Provisions, Section 21.20.6.8**, concerning the operations, plans, specifications, etc.: We don't have specific comments on this section but wanted to flag it since it would require facilities located in NM to ensure their facility plans meet these requirements. Some may already be in place for firms following Part 111 and Part 117, and Section C. (Operation Plans) does say "as applicable."

    - Similar comments for 21.20.6.9 (Management and Personnel) – facilities located in NM should see how their current policies compare.

- **21.20.6.10 (Hemp Product Transportation)**: We agree there needs to be clarity regarding out-of-state companies.

- One suggestion would be to edit Section A to state "…it is illegal to transport **raw [or unprocessed] hemp products** without meeting the requirements…" and also remove the term "products" throughout that section and sections B and C, E.
- Section D., add "Hemp finished products **produced in NM…"** to limit the scope, but it seems that some of this may already be required under FSMA rules that apply to both food and supplements, or firms may already have similar procedures in place.

- 21.20.6.13 **(Hemp Finished Product Labeling):** for section B., edits as follows, "In addition to the labeling requirements….hemp finished products shall clearly identify **on the label, or via Quick Response (QR) Code on the principle display panel of the label:**

  (1) CBD content per serving in milligrams in accordance with 21 CFR Part 101 if a claim is made on the product label using for example the words "contains" or "provides" in the package and/or container, labeled in milligrams;

  (2) Delete this provision or, revise to "**A statement regarding THC concentration of the product on a dry weight basis**."

  - Delete Section C., which prohibits THC free claims. Or, add "unless substantiated with testing documentation" or similar language.
  - Delete Section E. (1), as the permitted concentration/content deviation of only 10% may be difficult to achieve; wider variation may be needed.
    - For (2) regarding hemp flower, this may also be an issue.
  - Modify Section G. to state "Hemp product cannot contain **claims that the product is intended to diagnose, mitigate, treat, cure, or present disease**."

- 21.20.6.14 **(Hemp Finished Product Testing):** again, it seems this would apply to products produced in NM only, but consider clarifying by modifying to "…hemp finished products **produced in New Mexico…"**
  - Of note, only approved labs can be used. Here is the list from the NMED website as well - https://www.env.nm.gov/hempprogram/labs/.
  - Could change "…by an approved laboratory…" to "an independent, ISO-accredited lab" or similar language that we've seen in other states to expand the scope.
  - Note there are specific water content and testing limits in Section D and E, including a requirement to meet USP limits for solvents – the USP limits may not be appropriate hemp products.
  - Of note, Section J. requires reporting to regulators if certain test limits are not met.

- **21.20.6. 15 (Hemp Laboratories):** same comments as above regarding approved labs.

- **21.20.6. 20 (Holding, Examination, and Destruction of Hemp Products):** this section seems to indicate that the requirements above only apply to NM-produced products, since it states that the "regulatory authority may place a hold order on products **in a permitted facility"** that are not in compliance.

Sincerely,

Jonathan Miller
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U.S. Hemp Roundtable