



Arizona Department of Agriculture

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Industrial Hemp Program Rules Committee Meeting Minutes 2-22-19

Call to Order. - Dwayne Alford, Committee Chairperson, called the meeting to order at 10:03 A.M.

Roll Call. - Brian McGrew called roll. All Committee members, except Colleen Lanier and Alex Holley, present. A quorum was indicated. Alex Holley arrived @ 10:20AM

Introductions. - Mr. Alford opened the meeting by providing some general guidelines and direction on how today's meeting would be conducted.

Approval of January 25, 2019 Minutes. Mr. Alford called for discussion of the January 25, 2019 meeting minutes. Hearing none, Paco Ollerton made a motion to approve the minutes as written, Sean Dugan seconded the motion and all members voted to approve the minutes as written.

Program Fees. Mr. Alford opened this discussion by providing an update of the process he, J.L. Echeverria, Alex Holley and Brian McGrew went through to evaluate fees schedules and models that would be used to support the program and to come up with some suggestions for Committee consideration in determining fees. Mr. Alford stated the fees as developed and provided to the committee for review. Grower license: \$1,500 per license; \$25 per outdoor acre up to 100 acres, \$5 acre for each additional acre; \$75 per indoor facility up to 3 acres, \$25 per acre for facilities over 3 acres; Site modification fee of \$300 for any addition or change of location of the registered area; \$150 per THC sample analysis for any pre-harvest re-samples for crops that indicated a result above the threshold for compliance, Post-harvest samples that have been determined to be a regulatory concern by the Department, or by request from the grower that requires official analysis for commerce. Information, discussion, and action. Processor license: \$3,000 per license; Assessment of \$0.5 ton for fiber, \$5 ton oil seed and grain, and \$100 ton for floral material; Site modification fee of \$300 for any addition or change of location of the registered area; \$150 per THC sample analysis for any samples that have been determined to be a regulatory concern by the Department or by request from the grower that requires official analysis for commerce. Harvester license fee of \$150; Transporter License fee of \$150; Broker registration of \$1,000; and Nursery registration of \$1,000. Mr. Alford asked for discussion from the Committee. Mr. Dugan asked what would be involved with the inspection process and THC sample collection. Mr. McGrew replied that the inspector would visually inspect crops and collect a sample for each contiguous location and ensure the licensee is in compliance with all conditions of the program (signage, etc.) and their licensing agreement. Michael Stoltz asked for clarification that it would be one sample per location (site) and if it would be \$150 for each sample. Mr. McGrew confirmed that it would be one composite sample per location and that the \$150 fee would be applied for pre-harvest re-samples that were above 0.3% THC, other hemp that is of regulatory concern, or at the request of the grower for any commerce requirements. Regular samples would be included in the licensing fee. Mr. Ollerton asked if there are guidelines on the sampling procedures. Mr. McGrew indicated those are in development, but it would basically be a random sampling of each location. Mr. Stoltz asked if there is a crop cycle of (as an example) every 3 months, would one sample be collected or one for each cycle. Mr. McGrew responded that it would be one for each harvest. Mr. Dugan asked if there would be any pre-inspection of each location for compliance. Mr. McGrew indicated that there may be audits during the year but not

necessarily prior to planting. Mr. Ollerton was concerned that the Grower license fee was high and was hoping for a sliding scale based on the acreage planted. Hobby farm for 5 acres seems a little steep. How do you address that? Mr. Alford replied that when the group looked at the fees one thing was expressed is that we don't want to discourage participation, but the challenge is that we have fund the program beyond the initial start-up funds. All we have to rely on is the comments we've heard and the information provided in the questionnaire. This was what was used to determine the fees indicated. Mr. McGrew gave an overview of how the fees were determined based on this information. Yields, acres planted, and intent of the use of the crop were a determining factor. Mr. Alford called for a motion to approve the fee schedule. Mr. Dugan made a motion to approve the schedule. Mr. Echeverria asked if the Committee would allow the public to comment on the fee schedule presented. Mr. Dugan withdrew his motion to approve the schedule. Mr. Alford called on Dr. Hope Jones to comment. Dr. Jones asked if historical data would be able to be used to reduce the amount of inspections per year; and would there be provisions for a research and development license. Mr. Ollerton indicated that the research component would be addressed later. Mr. McGrew indicated that the compliance rules are still in development. However any official samples will need to be collected by the Department. Mr. Alford indicated that starting June 1st, there won't be any historical data and that this issue would be a point to consider for the future Hemp Council to determine.

Mike Huddnall, indicated that there are other methods available beyond conventional methods to conduct testing.

Jarrett St. Amad, U.S. Marine, disabled veteran asked if there was an consideration for exemptions for disabled veterans in the fee schedule and for small scale growers of 5 acres or less.

A member of the general public, asked how these fees compare to other agricultural commodities. Mr. Ollerton indicate that, compared to cotton, there are some comparison in the fees, however this is something new and that this program has to be self-funding after the first year. Additionally, the purpose of the Hemp Advisory Council (to be appointed) will evaluate the on-going fees and make suggestions to adjust accordingly. Mr. Echeverria indicated that yes, this fee structure is significantly higher than other programs, but the issue is that these other crops don't have the potential to contain THC and that is what this program has to address. We want this program to last long term and there is a concern that the initial acreage will be low. We have to be careful that the program does not run out of funds. The public member indicated that the \$1,500 would be cost prohibitive to the small grower and that this program would need these small growers to support the program. Mr. Alford reiterated that the mandate to ensure these crops are not over the 0.3% THC threshold is what is driving the need for these fees.

Chris Piliero, asked if there would be additional fees or assessment under the Nursery Registration for the number or quantity of clones sold and would a hemp grower be able to sell to a medical marijuana grower. Mr. Holley indicated that the medical marijuana is under a different program under the authority of a different agency with their own requirements. Mr. Alford indicated that there is no plan for an additional assessment or fee based on quantity for a registered nursery at this point.

Lucas Johnson, Ascending Farms, asked if he would have to apply for all of licenses if operating all aspects of growing through processing. Mr. McGrew indicated he would need to apply for a grower and processor license.

Troy Jenkins asked about brokering for seed or oil sales. He was informed that would be the \$1,000 registration fee.

Brooke St. George, asked about the cost per THC sample and how often would that be assessed to the processor. As a processor, the THC analysis would be done if there was a red flag for anything of regulatory concern. Ms. St. George also asked if the processor assessment was for pre or post processing. Mr. McGrew indicated it is based on raw product received.

Mr. Alford closed the public comments. Mr. Ollerton indicated that the Committee should investigate the grower license further and he would like to see a sliding scale based on acreage. Mr. Alford tabled the fee

structure until Mr. Dugan indicated he was satisfied with the fee structure, understanding that the fees can be adjusted for the 2020 season and that he would hate to see this program come up short this first year because of lack of funding. Mr. Holley asked if Mr. Ollerton had a suggestion on what to propose. Mr. Ollerton indicated that a reduced fee for smaller grower and a per acreage fee. Mr. Alford tabled the discussion until the Committee could review alternative fees schedule.

Eligibility and Licensing Rules. - Mr. Alford opened discussion for the proposed rule language for Committee approval on draft administrative rules R3-4-602. Eligibility; R3-4-603. Licensing, Registrations, Applications, Renewals, Withdrawal; and R3-4-604. Research license. The Committee reviewed the language in R3-4-602 with no additional comments. Mr. Alford proposed a change in subsection (E) to read: "*E. Application two-year renewals. At a licensee's discretion, a person that has been licensed by the Department under the industrial hemp program may apply for a two year renewal provided: 1. The person was licensed in the industrial hemp program within the previous ~~twelve months~~ calendar year;*" Mr. Holley made a motion to accept changes as stated, Mr. Ollerton seconded the motion. All members voted in favor of the change. During the review a written recommendation was provided by Colleen Lanier, as read by Mr. Ollerton, to make a change that anywhere where "Maps and Aerial photos" is mentioned in the draft rules to consider the Farm Bill language of a "legal description of land" only. There is no mention in ARS Title 3 Chapter 2 Article 4.1 to require maps or aerial photos. Could the Committee consider using the legal description of land only? This could be GPS coordinates, address or property information". During discussion it was recommended to retain the language as drafted to include requiring maps or aerial photos. Mr. Ollerton continued with Ms. Lanier's second comment on subsection (F)(1) to read "*1. Agreement to provide access, for authorized Department inspectors ~~and law enforcement agencies~~, at any time, to all hemp and hemp seed, planted or stored, and all records to determine compliance with this article and any state or federal law, rule or order regulating the Cannabis genus;*" The Committee agreed with this change. Mr. Holley motioned to strike "and law enforcement agencies" from subsection (F)(1), Mr. Dugan seconded the motion. All members approved the motion. The Committee reviewed rule R3-4-604. Research license and based on the comments received proposed to review further and investigate proposed language for a research license. Mr. Alford tabled the research license until a later date. Mr. Alford called to approve rules R3-4-602 and R3-4-603 with changes. Mr. Ollerton made a motion to approve rules R3-4-602 and R3-4-603 with changes. Mr. Holley seconded the motion. All members voted in favor to approve.

Administrative Rule Language. Mr. McGrew reviewed the latest draft of proposed rule language for R3-4-606. Authorized Industrial Hemp Seed and Propagative Materials.; R3-4-607. Location requirements; Signage.; and R3-4-608. Compliance; Record keeping; Audits. Mr. McGrew indicated that these rules would be prepared for Committee action during the next meeting.

53rd Legislature SB1377. Mr. Alford turned the Mr. Stoltz indicated that the legislation (SB1377) passed in 2017 allows the pharmaceutical produced from Cannabidiol to be prescribed to patients and makes it a level V controlled substance by DEA. The concern is that this would prohibit hemp growers from producing hemp for the compound Cannabidiol and that products would have to be removed from retailers. Mr. Holley and Mr. Echeverria commented that it appeared no prohibitive language is in this legislation. Mr. Stoltz requested an official position from the Department's legislative Council.

Future Agenda Items.

Mr. Stoltz requested a status update on the DEA permit to import seed. Mr. Stoltz requested a position from the Department and the legislature on SB1377. Chris McCormack indicated he could investigate the request. Mr. Holley asked that information on the pre-application process be discussed.

Call to the Public.

Mr. Alford began selecting speaker cards for the call to the public. Hope Jones posed some comments on the proposal to require a university endorsement for a research license and that it may be prohibitive based on university interest. Ms. Jones proposed that maybe more of a Department accreditation program would be more effective.

Lat Celmins written comments were provided to the Committee. Mr. Celmins also asked that the program not be over regulated to promote program growth.

With no further business, Mr. Alford adjourned the meeting at 1:00 P.M.