



Arizona Department of Agriculture

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Industrial Hemp Program Rules Committee Meeting Minutes 9-21-18

1. Call to Order. - Dwayne Alford, Chair
Meeting called to order at 12:02 P.M.
2. Roll Call. - Brian McGrew
All Committee Members present: Dwayne Alford, Paco Ollerton, JL Echeverria, Sean Dugan, Alex Holley, and Colleen Keahey Lanier. Michael Stoltz arrived after Roll Call.
3. Approval of August 31, 2018 Minutes.
Mr. Alford called for discussion of the August 31, 2018 meeting minutes. Hearing none, Paco Ollerton made a motion to approve the minutes as written, Mr. Echeverria seconded and all members voted to approve the minutes as written.
4. Progress Report.
Mr. McGrew provided an update to the Committee and the general public on the progress being made in the development of Administrative rules and other program related items. Mr. McGrew and Mr. Holley will be attending the Red Rock Hempfest in Sedona on September 29th, 2018 to survey attendees on interest in the upcoming Industrial Hemp Agricultural Pilot Program.

An inquiry on the definition of "Hemp Products", as indicated in A.R.S. § 3-311, was sent to the Attorney General's Office asking about the intent of the language; no response has been received to date. The Department will continue to move forwards with developing language to further define this issue in rule, unless otherwise advised. Rule objectives and formatting are continuing to be drafted.

Mr. McGrew is trying to get audio posted from previous meetings, but is having a technical issues with this task.

The program questionnaire that was developed will be posted to the website next week.

5. Response to 8-31-18 Call to the Public.
Mr. McGrew provided an update on two issues brought up during the August 31, 2018 Committee meeting. One, in response to two inquiries on the opportunities for Veterans and new/small businesses to participate in the program. The Department is not going to create opportunities, but will not restrict the ability of someone to participate based on farm size or experience. However, the applicant will have to meet the eligibility and licensing requirements once those are defined.

Secondly, in response to including Tribes and Tribal entities in the rulemaking process and future licensing. There are provisions in the Law to allow the Department to license Tribal applicants.

5. Response to 8-31-18 Call to the Public (Continued).

Tribal Governments will have the opportunity to comment during this process and once we have developed some initial rule language.

6. Zoning Requirements.

Mr. McGrew brought up two different issues for Committee discussion, cross-pollination and property zoning. Mr. McGrew provided information on how other states regulate these two issues.

On the topic of cross-pollination, it varies between states that do and do not have administrative rules or restrictions on distance requirements between industrial hemp grown for fiber or grain and industrial hemp grown for Cannabinoids (CBDs); or between industrial hemp and authorized marijuana facilities. Some states work with growers to identify areas that may be of concern for cross-pollination. Some states have distance restrictions for industrial hemp grown for certified seed. The Committee discussed issues of grower's rights and responsibilities, and how much enforcement powers should the Department have in regulating the distances. Mr. McGrew stated, if language is included to restrict distances the Department would be put in the position to enforce those restrictions. In a hypothetical scenario, if a grower planted 100 acres of hemp within a restricted distance, then the Department is faced with enforcing the restriction and may have to require destruction of the crop. Ms. Lanier indicated that some states, like Tennessee, use maps to indicate the locations for growing areas and that is used as a managing tool to help growers. Mr. Ollerton asked if there was any rules established to enforce the distances, Ms. Lanier replied that there were no rules for distances, but there were rules for genetic development. Mr. Echeverria wanted to clarify that this committee does not make any laws, as it is an advisory Committee, and asked what the Department's position was on enforcement. Mr. McGrew replied that there were statutes [in the Hemp Law] that would allow the department to enforce rules developed to manage the program and take any corrective actions to remediate. [Which could include a cease and desist, or seizure and destruction of a crop]. Mr. Echeverria then asked, to what degree should we include rules for the enforcement of distances to be consistent with statute, if any? The Committee discussed the authorization granted in statute and how that effects the ability to consider including a rule to regulate distance requirements. Mr. Holley asked if the mapping provided in Tennessee allowed them to enforce distances. Mr. Lanier said it was only used as a management tool and would only provide a notification to growers. Mr. Dugan said that a notification system sounded like a better solution for this Program as opposed to distance requirements in rule. Ms. Lanier indicated one issue found in Tennessee and Kentucky was theft of hemp plants mistaken for marijuana and that signage was used to help reduce those occurrences and that might be a useful component for this program. Mr. Holley asked if the Department had GIS technology. Mr. McGrew indicated that they do, however "Google Maps" was being looked at as the mapping technology for this program. It is being used in other states and is very user friendly.

Mr. McGrew thanked the Committee for the productive discussion and brought up the second topic for discussion, property zoning requirements. Should rules be included that indicate properties must be zoned agriculture, commercial, etc.? It was indicated that a few states did have rules on this subject but most did not, leaving it to the responsibility of the grower or processor. Mr. Echeverria indicated that it should be the responsibility of the grower, even with his own painful experiences, and that he has had to manage his way through zoning requirements. Mr. Ollerton said it will have to be looked at by the grower.

6. Zoning Requirements (Continued).

Mr. McGrew suggested that maybe it should be part of the application process and have an acknowledgment by the applicant that they are responsible for the knowledge of their zoning requirements. Mr. Holley agreed, and that zoning can greatly vary between cities and counties and would be a difficult task for the Department to manage. Mr. Holley asked what the ramifications would be if we don't include zoning requirements in rule. Mr. McGrew stated that the primary issue is that if the Department issues a license to a grower, but then the grower is prohibited by a local ordinance, that applicant may come back to argue that the Department issued the license to an ineligible party. The Committee discussed and agreed that this is still the responsibility of the applicant to know what they are allowed to do on their property and it's not the responsibility or liability of the Department, but there should be an acknowledgement during the application process. Mr. Holley asked if there would be any coordination with cities and towns about the industrial hemp program. Mr. McGrew indicated that city and county governments and chamber of commerce's would be notified once we are further along in the rulemaking process and they would have the opportunity to provide comment. Mr. Alford asked if there were ordinances regarding the Department of Health Services Medical Marijuana Program. Mr. McGrew indicated there was. Mr. Alford then indicated that counties and cities could do the same for industrial hemp and should be considered when providing information to industrial hemp program applicants. Mr. Stoltz stated that it should be easier for hemp applicants and we shouldn't have as many issues as the Medical Marijuana program faced since this program is following the Federal Farm Bill language.

7. Future Agenda Items.

Mr. Alford asked the Committee for future agenda items. Mr. McGrew asked, that during the next meeting, the Committee reviews other State's program fees for licensing, testing, and certification in preparation for the establishment of program fees in Arizona.

Mr. Ollerton, Mr. Stoltz and Mr. Holley indicated that information on "Federal issues" that could have an effect on this program should be provided and discussed (Banking, insurance, water, organic certification, etc.).

8. Call to the Public.

Mr. Alford opened the floor for the public. Kirk Dunn of Dunn Grain, indicated in response to the earlier discussion of agenda item 6. Zoning Requirements, that the Seed Trade Association of Arizona uses a program to pin grower locations that are designated for certified seed and allows growers the opportunity to make decisions on planting. Mr. Dunn asked if seed production is part of industrial hemp production and if there was an opportunity to produce certified seed prior to the August, 2019 start date of the program. Mr. McGrew responded that the August, 2019 date is in statute and the Department doesn't have the authority to allow any exemptions prior to that date.

Mark Cooper indicated there is a need to discuss how to coordinate growers, harvesters, transporters and processors. The discussion of the development of a "Hemp Exchange" to increase marketability is needed.

Sonia Martinez, private law firm of Mesa, AZ, asked if the Department would allow for the extraction of CBD components. Mr. Alford indicated that issue goes to the point of the issue with the definition of "hemp products".

8. Call to the Public (Continued).

Ms. Martinez raised the issue that the Committee should look into the issue of cannabis extracts as provided in Arizona's Medical Marijuana laws. Mr. Holley asked if "extracts" was the terminology used. It was indicated it was and that there is distinction between cannabis and marijuana. Mr. Ollerton stated that this question has been brought up with the Attorney General's Office and it continues to be a gray area we are attempting to deal with. Additionally, this Committee has a lot of ground to cover in now, less than a year. So this is just one of many issues to get through. Mr. Ollerton also stated that in order to comply with open meeting law, some questions brought up by the public can't be discussed or answered if it is not an item listed on the agenda. Mr. Ollerton continued, that if there is something that can't be addressed in administrative rule and needs to be changed in statute, those issues have to go back to the legislature for change and that is not a function of this Committee or the Department, which would require sponsorship.

Recio Jackson, Arizona Hemp Growers, asked if the Committee would add a discussion item for how hemp can be used for a food product since it is an agricultural product. Mr. Alford indicated that this issue also ties into the clarification for hemp products we have inquired about with the Attorney General's Office.

Stephen Christian mentioned an article that described some major companies are using foreign hemp products to create new lines of consumer products.

Duke Rodriguez of Ultra Health, stated that an agenda item should be added to discuss mapping. Issues may arise where local law enforcement might come across a field of hemp and create issues with the grower. Mr. McGrew indicated (as part of agenda item 4. Progress report.) that he has been in touch with both DEA and DPS already, and will be coordinating with other local law enforcement agencies to provide information and maps of locations registered in the industrial hemp program.

Mr. Alford mentioned that the Department's industrial hemp webpage has an online form that can be used to send questions to the Committee. Key questions, and responses, will be shared during these Committee meetings.

9. Next Meeting.

October 26, 2018 at 12:00PM, Location to be determined.

With no further business, Mr. Alford asked for a motion to adjourn. Mr. Ollerton motioned, motion seconded by Mr. Holley. All members voted to adjourn. Meeting adjourned at 12:54PM