



Arizona Department of Agriculture

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Industrial Hemp Program Rules Committee Meeting Minutes 1-25-19

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 present. A quorum was indicated.

Introductions and Update. - Mr. Alford opened the meeting by providing some general guidelines and direction to the general public about open meeting law and conduct during the meeting. Mr. Alford then gave an introduction of the staff and members of the Industrial Hemp Program Rules Committee.

Approval of December 7, 2018 Minutes. - Mr. Alford called for discussion of the December 7, 2018 meeting minutes. Hearing none, Paco Ollerton made a motion to approve the minutes as written, J.L. Echeverria seconded the motion and all members voted to approve the minutes as written.

2018 Federal Farm Bill Summary. - Mr. McGrew provided a summary of the provisions and new regulations related to industrial hemp indicated in the 2018 Farm Bill that was signed into law on December 20, 2018. Mr. McGrew also summarized changes to the draft program rules in light of the removal of industrial hemp from the Controlled Substances Act. It was also indicated that interested parties should review the press release provided by the Food and Drug Administration relating to Cannabidiol (CBD) and the Hemp Industries Daily Report on the 2018 Farm Bill.

Fingerprint Card Process. - Mr. McGrew indicated that there had been some initial discussions with the Department of Public Safety, Fingerprint Division on changes to the available application, however there were some areas that need further clarification and training. It was also indicated that, based on the requirements in the Federal Farm Bill, there may be a need to do additional background research to comply with the federal program requirements since the Level I Fingerprint Card issued by DPS only applies to Controlled Substances Act felonies five years or earlier.

Seed Certification. - Mr. McGrew reported that he had met with the Arizona Crop Improvement Association (ACIA) in regards to this organization's ability and interest in providing seed certification services for future growers of certified hemp seed (Certified hemp seed being Foundation, Registered, and Certified). Mr. McGrew indicated that the ACIA would be able to collaborate on seed certification for Arizona growers by using the national standards developed by the Association of Official Seed Certifying Agencies (AOSCA). Additional details would follow as they are developed. Colleen Lanier raised a concern that would seed certified by other states and countries would need to be certified by ACIA in order to be planted. It was clarified that this certification is intended for growers in Arizona that are interested in producing seed for propagation to be used by other growers in Arizona and other states. Seed that is imported would have to be certified by the origin regulatory official by the same general standards. Ms. Lanier also asked if new seed varieties would be allowed that may not yet have been vetted through the official seed certification process.

Mr. McGrew indicated that (since this issue is still in development) it should be discussed and a recommendation provided by the Committee.

Department Program Costs/Program Fees. - Mr. McGrew provided information about an estimation on the projected costs to manage and operate a licensing and compliance program for industrial hemp. Depending on demand, it could range anywhere from an estimated \$250,000 to \$300,000 annually just for the operation of the program, which does not include the costs for the analysis of hemp samples or any other unforeseen costs. Mr. McGrew indicated that, since he had not received a significant amount of responses of the questionnaire it was looking like the initial year would see a significantly low number of applicants and area planted. This would mean that initial fees for the first and possibly second year would need to be higher in order to compensate. This could be upwards of \$1000 per license and an inspection fee for crops of \$25 an acre. Michael Stoltz indicated that the Department should spread the \$750,000 appropriations over three years. Mr. McGrew explained that those funds were also needed for other components of the program, including establishing the capabilities of the State Agricultural Laboratory to run analysis and any other component for management and oversight that may be needed. It was also indicated by Mr. McGrew that the biggest concern was for the first year or two while the program is established. Once the program is fully functional, fees would normalize and would not be overly burdensome. The Committee asked if it would be possible to see a more detailed budget on the expected costs for management and oversight. Mr. Echeverria mentioned that the cotton industry has a bale assessment on cotton so that the growers are not the only ones that pay into their program. Mr. Echeverria asked if that was considered. Mr. McGrew stated that only a flat fee had been considered at this point. Alex Holley said that (nationally) the processors typically have the most to gain and should be accessed accordingly to balance the fee structure. Mr. Stoltz indicated that the fees should be more evenly spread across the value chain and no one should be put at a disadvantage because of the fees established. Mr. Stoltz stated that most of the compliance requirements fall to the FDA now and he does not know why we need to regulate this agricultural commodity. It's not even a controlled substance any more. Mr. Ollerton said that one big concern is not knowing how many acres are going to be planted. He expressed concern that the draft fee schedule seemed to rely a lot on growers paying the lion share and that fees should be more evenly distributed among the other license types. Sean Dugan asked if we could do a pre-application process to determine how many licenses would be issued and how many acres we could expect. Mr. McGrew indicated that we will have a pre-application process, but it will have to be after we set the rules and fees. Mr. McGrew indicated that he would draft up a separate set of fees and discuss with a couple of members before the next meeting.

Administrative Rule Language. Mr. McGrew reviewed the latest draft of proposed rule language in an effort to align with the 2018 Federal Farm Bill. Some draft rules were compressed and/or removed. Two items we set to be reviewed further. A subsection on prohibited products under the draft rule *Unauthorized activity; violation*. Also, a section on penalties. This would be reviewed with the fee schedule and a report will be provided at the next Committee meeting.

Future Agenda Items. - Mr. Alford opened the floor to the Committee for suggested future agenda items. Mr. Stoltz requested the Committee discuss SB1377 from 2017 that deals with Cannabinoids and potential overlap with the Industrial Hemp Program.

Call to the Public. - Mr. Alford reminded the audience of the protocol and conduct and opened the floor for the public. Braya Lee with A & Z farms asked why hemp isn't going to be treated like any other crop like alfalfa since it is no longer considered a controlled substance and would a broker need a license. It was indicated that the Broker would need to be registered so that the Department can track the crop, but the Committee would look into the subject further.

Jeremy Klein asked if a broker would be able to purchase unfinished goods from out of state and distribute within Arizona or would all finished goods (retail products) have to be produced in Arizona. Mr. McGrew indicated the Committee will have to investigate that issue. Josh asked when the Department stops tracking the hemp. Mr. McGrew indicated that the Program tracks only from the point of planting up to what is received in processing.

Josh also asked if he needed a license to broker floral products into the State for retail. The Committee would look into the subject further.

Mikel Weiser of Arizona Cannabis Monthly asked if the committee was aware that hemp floral material and cigarettes are already being brought into Arizona and sold in retail shops. The Committee would need to look into that issue further.

Mark Cooper indicated that he would be bringing in seed from other states and shipping out of state. He also indicated that the Department is trying to outlaw something legalized by the federal government.

Steve Parent said that there was no discussion of tax revenue. Mr. Echeverria indicated that taxes go into the state general fund and the legislature did not provide provisions for those to come into the hemp program. It was explained that the fees that get established support the program.

Jeff indicated a concern that the government will hold up the program by not certifying seed. Mr. Ollerton explained that the ACIA is the organization that certifies seed, which is not a government agency. The services are paid by the growers. Jeff also asked who would be coming up to his property, which is in the far corner of the state, to inspect his crop. Mr. McGrew indicated that it would be covered in the inspection activities of the Program.

Steve Parent asked if seeds that certified in other state would need to go through another certification. Mr. McGrew indicated that no, seeds that are certified by another state are eligible for use in Arizona.

Adam asked if there would be a lab selected for testing for the program. Mr. McGrew indicated that in statute it indicates it can be the State Agricultural Laboratory or a 3rd party lab. Adam asked if this Committee would develop those rules. Mr. McGrew indicated that would be a separate process.

Scott Brown asked why should a grower have to go through a seed certification process with genetics and possible intellectual property issues. Why is the government stepping in to restrict or control the seeds to be used when the end product needs to be in certain parameters? Ms. Lanier indicated that the (non-governmental) crop improvement associations have established standards of purity, uniformity, adaptability, and germination standards. This information is important information for a grower to make an informed decision about the seed type they are choosing. Mr. Brown asked if the seed certification is required if a grower wanted to purchase new genetics. Ms. Lanier indicated the seed certification is required if a grower is producing seed for the re-sale to other growers.

Kemper Burt indicated there is a need for a new crop in Arizona whether you're growing for fiber, seed, CBD, etc. Mr. Burt asked how long would it take to process the pre-applications when they are made available. The Committee indicated within a couple of weeks.

Evan Carr asked about residential property restrictions. Mr. Alford indicated that this topic is a zoning issue that would be governed by the County. Mr. Carr pointed out the language reviewed indicated a restriction on property zoned exclusively as residential, which his property is even though the area is used for other purposes. Mr. Alford indicated that the Committee would investigate that issue further.

A member of the audience indicated that the fingerprint clearance card takes about 60 to 90 days. Mr. Alford indicated that potential applicant will need to take that into consideration in planning. The Department has no control over that process.

Bandon Brooks asked about zoning requirements. Mr. McGrew indicated that the applicant would need to work with their county or local municipality zoning agencies.

Jeff Shinkuan indicated that the Committee should take into consideration high fees for fiber or seed producers would be at a disadvantage as compared to a producer of hemp for CBD.

A member of the audience asked if a person would need to apply for all licenses if growing and processing at one location. He was informed that he would only need to apply for a grower and processor license.

He also indicated that there is a number of fingerprint clearance cards and would there be a list of acceptable types. He was informed that in statute it indicates an applicant must have a Level I Fingerprint Clearance Card.

A member of the audience asked for clarification about storing other Cannabis products at a location. He was informed that it would have to be a separate structure, but could be on the same property.

Sal Ruiz asked if there would be any restrictions on the transfer of a license. He was informed that there would likely be a transfer fee for that option, for a qualified applicant.

A member of the audience asked if there was going to be lottery for the licenses. She was informed that there would be no limit on the number of licenses issued.

Brooke St. George asked about nursery services. She was informed there would be a registration requirement, but would not need a grower license, provided the operation is contracted by one or more licensed growers.

Evan Carr informed the Committee that there may be an issue with hemp crops (below 0.3%THC) that produce a product that has a THC limit above 0.3% through the extraction/distillation process and that the Committee should be aware and look into way to remediate these issues. He was informed that that Committee will look into it.

Someone asked about being provided the information displayed. They were informed that they would need to complete a public information request through the Department.

Jeremy Klein indicated that a licensed medical marijuana facility wouldn't be able to store CBD if it has to be in a separate facility. He was informed that this program is separate from the Medical Marijuana Program and is not relevant to this program. A dispensary can store CBD if they choose.

Jeremy Klein asked if there was any decision on whether to accept a crop that is below 0.300% THC or 0.399% THC.

A member of the audience stated that in order to stay competitive in the market 0.399% should be accepted. He was informed that the Committee hasn't investigated this issue since the last meeting, but would be investigating it in the future.

A member of the audience asked that if the seed is already certified by another state or country could that seed be used. He was informed that yes, that would be allowed. The seed certification is for the certification of seed produced in the state for resale.

With no further business, Mr. Alford adjourned the meeting at 1:30 P.M.