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John T. Salazar, Commissioner
Ron P. Carleton, Deputy Commissioner



John Hickenlooper
Governor

Industrial Hemp Advisory Committee Meeting

1:00 p.m. July 18, 2013

Colorado Department of Agriculture
700 Kipling St. Suite 4000
Lakewood, CO 80215

Commissioner's Conference Room

MINUTES

Facilitator: Ron Carleton, Deputy Commissioner

Present:

Colorado Department of Agriculture: Ron Carleton, Mitchell Yergert, Laura Pottorff

Attorney General's Office: David Joeris, CDA legal counsel;

Industrial Hemp Advisory committee members: Alfonzo Abeyta, Michael Bowman, Ben Holmes, Ed Lehrburger, Tracy Shogren, Chad Pfitzer, Troy Bauder, Megan Rundlet for David Blake;

Public: Jerry Fuentes, Martha Abeyta, Gloria Castillo, Samantha Walsh, Lynda Parker, Erik Hunter

Ron Carleton welcomed all committee members and guests and gave a brief history of how the Industrial Hemp Regulatory Program was initiated. All in attendance introduced themselves.

Role of CDA - Mitch Yergert, Plant Industry Division Director, stated that the Department's role is to implement the Industrial Hemp Regulatory Program through the creation and adoption of Rules.

Role of committee members- Mitch Yergert stated that the committee's role is to work with the Department to establish an industrial hemp registration program pursuant to Section 35-61-104 and the committee shall assist the Department in determining the qualifications and other criteria a person must satisfy to qualify for registration under the article. The committee is required to meet at least once a year so their work is an ongoing effort to provide input on what changes might be needed once the program is operational.

The Rule making process- David Joeris explained that there is a statutory process for rulemaking under the Colorado Administrative Procedures Act that must be followed in order to have rules processed and adopted. This process includes publication of the draft rules in the Colorado Code of Regulations, a public hearing, and approval of the rules by the Agricultural Commission

at one of its regular meetings before they can be adopted by the Commissioner. For more information please refer to:

http://www.sos.state.co.us/pubs/CCR/files/perm_rulemaking_process_flowchart.pdf

In order for the Industrial Hemp Regulatory Program Rules to become effective by March 1, 2014, the following time line must be adhered to in order to meet the guidelines stated in the Colorado Administrative Procedures Act.

Late September, 2013 - Rules filed

Late October, 2013- Rules published

Nov. 4 or 5, 2013- Public hearing

Nov. 12, 2013- Rules presented for Ag Commission approval

Effective on or before March 1, 2014.

The Industrial Hemp Registration Act vs. Rules – David Joeris explained that the Commissioner’s authority to adopt rules is strictly limited by the authority set out in section 35-10-104(5) and 35-10-105(2), C.R.S., as enacted by SB 13-241.

Discussion of Draft Rules – Laura Pottorff led a line-by line discussion on each section of the Rules. The following comments from Advisory Committee members were noted.

Part 1.0 Definitions-

- Megan Rundlet suggested that a definition of “law enforcement” be added.
- Troy Bauder suggested that the definition of “research and development” be expanded to include basic agronomic practices and include more clarity on seed increase.
- Addition of a definition of “commercial” was also suggested.

Part 2.0 Registration –

- 2.1 - discussion centered around the need for land owners (if not the registrant) to be informed of the crop growing on land leased by the registrant. The Department reiterated that it is up to the grower to disclose this information and make their own arrangements prior to registration. The Department is not required to regulate permission to farm land not owned by the registrant.
- Laura Pottorff brought up the concern that there might be an omission in the Act regarding who can register. Currently 35-61-104 (a) states that a person may obtain authorization to: (b) grow industrial hemp outdoors on not more than ten acres for research and development. This does not include greenhouses, where much R & D occurs. Stated this way, CDA can only register R & D outside. Those who grow in GH will need to register as commercial. Do we want this to stay that way? Otherwise the Act will need to be modified.
- Under section 2.2.2 Megan Rundlet asked that the rules require registrants, as a condition of registration, to allow criminal law enforcement personnel to enter registrant’s property with CDA inspectors. David Joeris responded that sections 35-10-104(5) and 105(2), C.R.S., of the Industrial Hemp Regulatory Program Act do not give the Commissioner authority to impose such a requirement because it is not necessary to ensure compliance with the .3% THC limit. He noted that the Colorado Constitution requires industrial hemp and marijuana to be regulated separately; that the Act does not give the Commissioner any authority to administer or enforce laws relating to

marijuana; and that all of the information submitted by registrants and the results of any testing will be available to any criminal law enforcement agency for use in investigating any possible violations of marijuana laws.

- Mapping, GPS and other documentation to be provided at the time of registration were discussed.
- Discussion regarding registration fees included direction to keep fees as low as possible to encourage participation. The Department explained that the Act requires (35-61-106 (2) that “fees be set at a level sufficient to generate the amount of monies necessary to cover the Department’s direct and indirect costs in implementing this program.”

Part 3.0 Reporting

- Discussion regarding types of documentation required was discussed. Much of the documentation required will be needed to conduct sampling and inspection programs. Planned harvest date 3.2.2 and 3.4.2 will be eliminated. That information will be collected from growers selected for inspection on a case-by-case basis at the department’s discretion.

Part 4.0 Inspection

- Discussion centered around crop uniformity which influences how samples are taken. This in turn dictates the statistical representation of THC levels in the field. If lab tests come back that THC is higher than 0.3%, the growing area is no longer registered or considered industrial hemp. What if a crop growing in an area is not uniform? Committee members stated that the wording in 4.3.1 should be broad and be at the inspector or department’s discretion.
- Sampling and testing protocols will be presented at a later date for committee consideration.
- Committee members reiterated that costs should be kept low to encourage participation in the program and development of a new industry. The Department reiterated that it is mandated to collect all direct and indirect costs associated with registration and inspection.
- Laura Pottorff asked for clarification regarding development of flowering and end use of the crop (seed vs. fiber). If harvest occurs prior to flowering does sampling need to be waived?

Part 5.0 Waiver- deferred to next meeting

Part 6.0 Violations/penalties- deferred to next meeting

Guests were allowed to comment or make statements prior to meeting adjournment.

Jerry Fuentes commented about the history of this crop as it pertained to Native Americans.

Gloria Castillo requested assistance from the Department and Committee regarding trade and legalization of the crop (a letter was presented).

Lynda Parker commented on the positive developments regarding hemp and the passage of the Act. Erik Hunter stated that he would be happy to support and assist with research on the crop.

Samantha Walsh asked that the Department consider regulating transport of hemp from field to processor.

Meeting adjourned at 4:00 p.m.