



**COLORADO**  
Department of Agriculture

305 Interlocken Parkway  
Broomfield, CO 80021  
303-869-9000 ♦ Fax 303-466-2867  
[www.colorado.gov/ag](http://www.colorado.gov/ag)

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



John Hickenlooper  
Governor

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## Industrial Hemp Advisory Committee Meeting

1:00 p.m. November 10, 2014

Colorado Department of Agriculture  
305 Interlocken Parkway  
Broomfield, CO 80021

Big Thompson Conference Room

### MINUTES

Facilitator: Ron Carleton- Deputy Commissioner

Present:

**Colorado Department of Agriculture:** Ron Carleton, Mitchell Yergert, Duane Sinning, Sharon Farr

**Attorney General's Office:** David Joeris, CDA legal counsel; David Blake; Stan Garnett, Boulder County

**Industrial Hemp Advisory committee members:** Alfonzo Abeyta, Michael Bowman, Ben Holmes, Chad Pfitzer, Troy Bauder;

**Public:** Lynda Parker, Erik Hunter, Bill Althouse, Janelle Willis, Craig Lee, Ryan Loflin

**DOUBLE CHECK THE PHONE NUMBERS IN THE HEADER.** Ron Carleton started the meeting at 1:10 p.m. by welcoming all committee members and guests. He reminded the attendees that the CDA has been tasked by the legislature to develop the rules and regulations for Industrial Hemp for the state of Colorado, and that the group is under a tight timeline. All in attendance then introduced themselves.

Laura Pottorff reviewed the first four sections. In Part 1, several words, which had been suggested at the previous meeting, were added to the definitions for clarification.

Part 2 was well covered last time so little was added at this meeting. Troy Bauder brought it to Laura's attention that 2.1.6 and 2.3.6 needed to mirror each other by removing the "exact" in regards to boundaries and dimensions of the growing areas. The sections refer to commercial and research growers respectively.

There were no changes for the first part of Part 3. Planned harvest dates under 3.2.2 and 3.4.2 will be struck due to different harvest times for the different strains. Also, the department will need written planned disposition of the crop prior to harvest.

Part 4 changes include adding 4.3.1 regarding composite samples for each variety to be taken from the growing area at the department's discretion. Much discussion ensued around what might happen to the grower if the composite sample tests higher than the .3% limit. Can wording be added to allow for the grower to dispose of the product in a way that is less costly to the operation? Can there be some other disposition rather than turning the grower over to law enforcement, and revoking the grower's permit? David Joeris reminded the committee that the state statute focuses on planting through harvest.

David Blake suggested that 4.3.1 be changed to include the growing and storage areas, so that if a producer is drying illegal product for someone else, the CDA could catch it. Laura reminded him that the CDA is only testing plants before harvest.

Discussion also arose regarding 4.3.2 about how long the CDA is to hold the second part of a sample for re-testing.

Section 4.4 regarding fees centered on how to keep costs down. The normal charge for an inspection is \$34/hour. Troy Bauder commented that if a research facility were to test all their different lines of hemp, the proposal could become very costly. A suggestion was made to conduct random samples, but to make certain that growers were not subject to more than one inspection per year.

Part 5, Waiver, had some language added to try to decrease possible criminalization of farmer exceeding the .3% limit. If a grower is registered as a research and development site, would that gain them some immunity?

Michael Bowman commented that state and federal regulations differ. Others brought up the fact that Colorado parameters are now law. Laura commented that CDA has no authority of the plant after harvest. It would be impossible to know the grower's intent. David Joeris did support the idea that CDA could take into account the registration. However, anything above .3% is in strict violation of the law. Bob Holmes commented that in Canada farmers are required to turn the seed under if it exceeds the limit.

This led to a larger discussion about what the farmers can or should do if the crop does exceed the legal limit. Should they hold the crops? Destroy the crops? Mitch asked what tests are being done now on seed sources? If the percentage of THC continues to rise after harvesting, does that give some wiggle room to growers and CDA inspectors based on when the crop is tested. Is criminal prosecution necessary? Perhaps the group should add a provision to the rules to allow for the crop to be allowed to be destroyed under supervision by law enforcement. But shouldn't there be an opportunity for the farmer to salvage the crop for silage or bedding or something that would not result in a total waste of the crop?

Stan Garnett mentioned that the current law is very confusing on marijuana. Most people in law enforcement just want to know what the rules are. It is unlikely that a grower would be

prosecuted as one would have to determine intent, and the fact that rules may vary from county to county.

There was some agreement that language needs to be crafted that allows for disposal choices if the crop tests between .3 and 1%. David Joeris suggested an extension of the waiver that if the crop exceeds the .3%, that the producer has two weeks to destroy it without penalty and no revocation of their license. Allow the grower to continue in the program. Would CDA have to observe the destruction of the crop?

Ron Carleton offered that the CDA has the responsibility for ensuring the decision. What are some other options? Destroy the crop, use it for biodiesel, bedding for animals, feed for animals. The time frame needs to be short enough (two weeks?) to be expedient, but to allow for some other productive way to salvage the crop. It was decided that Laura would draft this info into 5.0 with an approved set of recovery methods in time for the group's next meeting.

Discussion of 6.1 and what had been crafted so far under Violations/Disciplinary Sanctions/Civil Penalties. David Blake suggested that CDA build in attorney's fees. We must also consider reinstatement of the violators – what would be that time frame? Also, what is the cost to reimburse the grower if we are found to be in the wrong?

Ron Carleton called for a 10-minute break after which the group took public comment.

Bill Althouse: We are first in the world to be looking at industrial hemp and it is an honor to be here. .3% is an arbitrary number. It might dampen Colorado's place as a leader.

Lynda Parker: Thank you for allowing input. Language creates perception, and I encourage the committee to see that anything above .3% is not in compliance, but it is not marijuana. There is a big difference between the two.

Craig Lee: I am pleased to see this discussion as these items were never discussed in Kentucky, where I'm from. I've been working with Canada. The husk around the seed is where the THC is contained. As each state is setting its own rules, perhaps there could be some leeway (1%). Maybe we can test some wild plants growing in the area.

The committee wondered aloud about wild plants in the area. Someone thought that the sheriff's office might have that information.

Definitions of commercial and R & D need to be flexible. The normal progression would be breeder seed to foundation, foundation to development and development to commercial product.

David Joeris asked if there could be a waiver for testing? Laura said that she would like to think about that.

Mitch stated that the goal is to be done with the rules in September. Laura asked for guidance on testing and labs, particularly the specifics.

Ron asked that the group meet again on September 11. Most of the people there agreed on the date.

The meeting ended at 3:03 p.m.