

**California Department of Food and Agriculture (CDFA)
Minutes**

of the Meeting/Video Conferencing
of the Industrial Hemp Advisory Board (IHAB)
Held on Thursday, May 5, 2022
1220 N Street Auditorium
Sacramento, CA 95814

Zoom: <https://us06web.zoom.us/j/84223849342>

Meeting ID: 842 2384 9342

Passcode: hemp2022!

Dial-In: 1-669-900-6833

Dial-In Meeting ID: 842 2384 9342

Dial-In Passcode: 481352774

INDUSTRIAL HEMP ADVISORY BOARD MEMBERS

Members Present: Emma Aronson*, Justin Eve, Lisa Herbert, Kevin Johnson, Jack Norton, Rob Porcella, Vanessa Ramirez*, David Robinson, Richard Soria, Luke Wilson*

Members Absent: Will Kleidon

*unable to participate in a voting capacity

OTHER ATTENDEES*

Ramon B., Joanna Cedar, Tony de Veyra, Janet Eckles, Reichel Everhart, Cathy Fisher, Ana Gomez, Devinn Gray, Gurmin Gill, Mario Gutierrez, Garibay J., Kapua Kahumoku, Joshua Kress, Jenna Leal, John Long, Parminder Malhi, Kelly Mayer, Matthew McClain, SueAnn Neal, Tim Pelican, Loc Phan, Jhonny Pineda, Rachel Kubiak, Vanessa Ramirez, Wayne Richman, Anne Roderick, Scott, Josh Schneider, Stephanie, Kelle Schroeder, Ed Williams, Monica Winers, David Wirta, Marie Ziegel

*as self-reported in the Zoom application or sign-in sheet

CALL TO ORDER AND ROLL CALL

Richard Soria, Chair, called the meeting to order at 10:22 a.m. and conducted roll call. A quorum was present for the Board.

BAGLEY-KEENE OPENING MEETING ACT REVIEW

Natalie Jacuzzi, Sr. Environmental Scientist for CDFA's Industrial Hemp Program, provided an overview of the Bagley-Kenne Open Meeting Act pertaining to the definition and purpose of a meeting, quorum, and the requirements for teleconference meetings.

Board members requested clarification on the definition of a meeting and the limitation of information sharing and discussion between board members, in order to ensure compliance with the Bagley-Keene Open Meeting Act. Joshua Kress, Chief of CDFA's Pest Exclusion Branch, recommended board members to reach out to the program with any questions or assistance needed to ensure compliance with the Bagley-Keene Open Meeting Act.

Public comments included any legislative changes in notice requirements for public spaces and conversations between board members and the public outside of public meetings.

BOARD VACANCIES

Jacuzzi provided an update on the vacancies on the Board. The Board had two current vacancies: a registered grower of industrial hemp and a representative of an established agricultural research institution. The program was preparing a press release and listserv announcement regarding filling these vacancies.

Kevin Johnson announced that the board should anticipate an additional vacancy as he did not intend to renew his registration and therefore, would not be eligible to remain on the board.

Eve requested additional information on the board vacancy process as to whether previous applicant can reapply and the board providing a recommendation on a candidate to the Secretary.

Eve moved for the Board to review all the applications received for board vacancies and provide a recommendation on the candidate to the Secretary. Jack Norton seconded.

Kress summarized the general outline of such a review process, which includes:

- The program receiving applications and compiling information for the Board,
- The Board discussing the candidates during a public meeting, and
- The Board voting to recommend appointments to the Secretary.

Board members discussed with the program regarding the timeline to execute the review process in coordination with the next Industrial Hemp Advisory Board.

David Robinson expressed concerns on the motion as the county agricultural commissioner and representative from the California State Sheriff's Association were nominated from their respective associations.

Eve amended the motion to exclude the representatives for the California State Sheriff's Association and county agricultural commissioner.

Board members further discussed whether the motion included reappointments, and agreed that the motion includes reappointment in order to avoid different processes, since all memberships are posted at the end of each term.

Board Motion #1

The Board recommended that applications for board vacancies are presented to the Board for review and recommendation to the Secretary, except for the positions of county agricultural commissioner and representative of the California State Sheriff's Association.

Motion: Justin Eve Second: Jack Norton

Details of Board Vote

In Favor: Justin Eve, Lisa Herbert, Kevin Johnson, Jack Norton, Rob Porcella, David Robinson, Richard Soria

Against: None

Abstain: None

Absent: Emma Aronson*, Will Kleidon, Vanessa Ramirez*, Luke Wilson*

* unable to participate in a voting capacity

ANIMAL FEED – INFORMATION ONLY

Jenna Leal, Environmental Program Manager for CDFA's Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch (FFLDRS), provided an overview of the branch and the Safe Animal Feed Education Program. Additionally, Leal presented on the study conducted by University of California, Davis regarding the effects of feeding lipid-extracted hemp residue to lactating goats.

Based on the results from the study, the Feed Inspection Advisory Board and its technical advisory subcommittee recommended a more comprehensive study on dairy cattle. The new feeding trial started in April 2022.

The Board requested the following information:

- impacts of acetone rinse in the palatabilities of the feed,
- types of lipids used,
- somatic cell count,
- measurements of THC content found,
- studies on dairy cattle, and
- funding for the research studies.

Leal noted that the lactating goats trial included studying the adipose tissue, but findings were not yet released. Further details on the study could be found on the Inspection Services webpage.

Public comment included information on other research studies available involving hemp, and concerns with the restriction of hemp in animal feed even though it is allowed for human consumption.

Eve suggested that the program update its website to include links to this information.

BRIEF PROGRAM ACTIVITIES UPDATE

Jacuzzi presented on the program activities including the following:

- registration statistics as of May 2, 2022
- update on the review and approval of laboratory applications as of May 2, 2022
- general program activities.

As requested from the previous meeting, Jacuzzi also provided information on the outreach activities since 2019 and correspondences in 2021. Outreach activities included trainings to the counties and presentations by the program at requested events. Correspondences included public, county, and laboratory inquiries.

This agenda item was tabled until later in the meeting.

REPORT ON RULES AND REGULATIONS

Norton and Eve, members of the Rules and Regulations Task Force, presented recommendations to the Board regarding the pre-harvest report and harvest definition.

Norton provided a report on the redundancy of the pre-harvest report with the information already provided in the planting report and sample analysis request form with the exception of the anticipated harvest start date. The recommendation from the task force was to include the anticipated harvest start date onto the sample analysis request form and remove the pre-harvest report requirement.

Lisa Herbert requested information as to whether the proposed/withdrawn emergency regulations impacted the proposal from the task force. Jacuzzi responded that the proposed regulations did not amend the pre-harvest report and sample analysis request form requirements.

Norton moved to recommend that the Department amends Section 4940 in Title 3 of the California Code of Regulations (CCR) based on the proposal presented by the Rules and Regulations Task Force, which removes pre-harvest report requirements and adds the anticipated harvest start date to the sample analysis request form requirements. Eve seconded.

Joshua Schneider, Hemp Farmers Guild, provided support to the change as it would lessen the burden in providing and reviewing additional documents for both the registrants and commissioners, which would make the process more streamline.

Board Motion #2

The Board recommended amending California Code of Regulations (CCR), Title 3, Section 4940 to remove the requirement for a pre-harvest report and to add a field for the anticipated harvest start date to the sample analysis request form, as presented.

Motion: Jack Norton
Seconded: Justin Eve

Details of Board Vote

In Favor: Justin Eve, Lisa Herbert, Kevin Johnson, Jack Norton, Rob Porcella, David Robinson, Richard Soria

Against: None

Abstain: None

Absent: Emma Aronson*, Will Kleidon, Vanessa Ramirez*, Luke Wilson*

* unable to participate in a voting capacity

Norton and Eve then presented on the harvest definition as shown on the approved state regulatory plan for hemp production and the emergency regulations. The task force presented their research on other states' definitions of harvest, but determined that most states did not have an appropriate definition to fit California.

The task force recommended the definition of harvest as follows:

"Harvest" means the collection of any portion of an industrial hemp plant at the termination of the cultivation process for the purpose of processing, distribution, storage, or sale.

"Harvest" does not include material removed from the plant for:

- *testing,*
- *research and development,*
- *thinning,*
- *cloning,*
- *tissue propagation,*
- *male culling,*
- *disposal,*
- *transplants from one lot to another lot if both lots are within the same permit holder's control.*

In the development of this recommended definition, the task force considered that the definition should include which activities are to be defined as "harvest" and which are not.

Board members discussed the definition of harvest from the withdrawn emergency regulations.

Robinson expressed concerns with “termination” as this would lead to discretion of when termination would occurred. Rob Porcella concurred with this concern and also suggested the removal of “storage”. Norton and Eve agreed with the recommendations.

Board members further discussed the definition, in regards to microgreen cultivation, including testing requirements. Norton and Eve considered including maturity of a plant in the harvest definition, but were recommended to address testing requirements/exemptions separately from the harvest definition.

Robinson had concerns with the removal of “storage” as stored materials may be considered to be harvested. Norton agreed with the recommendation.

Vanessa Ramirez suggested to the task force to conduct further research on the definition, in consideration of other cultivation activities and practices and present in the next board meeting. However, Eve expressed concerns with the definition in the proposed emergency rulemaking for this upcoming planting season, and felt that a recommendation to the Secretary would provide urgent feedback on the definition. The task force planned to continue to work with the other requests and concerns from the Board.

Robinson moved to recommend that the Department amends regulation on the definition of harvest based on the proposal presented by the Rules and Regulations Task Force, but with the removal of “at the termination of the cultivation process” from the definition .

Schneider expressed concerns that changing regulations prior to/during a planting season would lead to confusion on cultivators and could add more costs to the registrants and/or county agricultural commissioners. Additionally, Schneider suggested that the task force focuses on the current definition rather than the proposed definition provided through the emergency rulemaking and the state regulatory plan.

Board members discussed the public comment, the rulemaking process and the county’s perspective.

Board Motion # 3

The Board recommended amending regulations to define “harvest” as follows:

“Harvest” means the collection of any portion of an industrial hemp plant for the purpose of processing, distribution, storage, or sale. “Harvest” does not include material removed from the plant for:

- testing,
- research and development,
- thinning,
- cloning,
- tissue propagation,
- male culling,
- disposal, or
- transplants from one lot to another lot if both lots are within the same registrant's control.

Motion: David Robinson

Second: Jack Norton

Details of Board Vote

In Favor: Justin Eve, Lisa Herbert, Kevin Johnson, Jack Norton, Rob Porcella, David Robinson, Richard Soria

Against: None

Abstain: None

Absent: Emma Aronson*, Will Kleidon, Vanessa Ramirez*, Luke Wilson*

BRIEF PROGRAM ACTIVITIES UPDATE (CONTINUED)

The Board resumed the tabled agenda item, "Brief Program Activities Update."

Board members discussed with the program the following:

- emergency regulation process,
- definition of an emergency, and
- distribution of drafted emergency regulations to either the board or the task force.

There were concerns with emergency regulations being promulgated without any considerations from the Board. Kress stated that the program sought to avoid emergency regulations except when necessary. Permanent adoption of the emergency regulations was necessary to implement the approved state plan and comply with federal regulations, but regulations can and should be amended when needed, and the Board was encouraged to continue to discuss and make recommendations for further changes to regulations.

Ramirez suggested that the program avoid noticing emergency regulations on a Friday, in order to avoid weekends for public comments. Kress stated that the program would look into this issue for emergency regulations, but noted that for regular rulemaking notices are generally posted on Fridays.

After public comments were completed, the Board lost quorum.

REPORT ON BUDGET AND REGISTRATION FEES

This agenda item did not occur, due to loss of quorum.

REGISTRATION FEE STRUCTURE PROPOSAL

This agenda item did not occur, due to loss of quorum.

REPORT ON LEGISLATIVE UPDATES

This agenda item did not occur, due to loss of quorum. However, handouts were provided prior to meeting.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Wayne Richman, California Hemp Association, asked for confirmation that the meeting will no longer continue on the remaining agenda items. Jacuzzi explained that when a quorum is not achieved, then the board cannot transact business other than to fix the time to adjourn, recess the meeting, or take measures to obtain quorum. All agenda items not addressed during the meeting would be moved to the next meeting's agenda, which included Report on Budget and Registration Fees, Registration Fee Structure proposal, and Report on Legislative Updates.

Johnson inquired about his eligibility to present to the Board on the Legislative Update after he has resigned from his position. It was noted that he could still present to the Board as a member of the public.

NEXT MEETING/AGENDA ITEMS

The next Board meeting will be determined by a Doodle poll to be sent out after the meeting. Any recommended agenda item will be provided directly to the Board Chair.

ADJOURNMENT

The meeting was adjourned at 2:53 p.m.

Respectfully submitted by:

Natalie Jacuzzi, Senior Environmental Scientist
Industrial Hemp Program
California Department of Food & Agriculture