

Industrial Hemp Advisory Board (IHAB) Meeting
California Department of Food and Agriculture (CDFA)

1220 N Street, Auditorium
Sacramento, CA 95814

Wednesday, September 26, 2018
10:00 AM – 1:00 PM

Board Members

Van Butsic
Joshua Chase
Rick Gurrola
Allison Justice
Matt McClain (Absent)
Valerie Mellano
Tom Pires
David Robinson (Absent)
John Roulac (Absent)
Lawrence Serbin
Richard Soria

CDFA & Guests

Priscilla Agoncillo
Ben Arreguy
G.V. Ayers
George Bianchini
Chris Boucher
Tim Bowden
Mary Bright
Heather Burke
Poonam Chandra
Tony DeVeyra
Bo Ecker
Justin Eve
Michael Jensen
Jean Johnson

Randy Jordan
Joshua Kress
Lane Labbe
Jason Leathers
Kirk McDaniel
Wendell McDaniel
Hayden Oilar
Michelle Phillips
Craig Priuty
Wayne Richman
Jennie Tedlos
Kristin Teramoto
Cathy Vue
Joe Worrell
Marie Ziegel

1. Roll Call and Opening Remarks

Meeting called to order at 10:05 AM by Lawrence Serbin, Board Chair. Board members and Program staff provided self-introductions.

Lawrence Serbin briefly reviewed the meeting's agenda. Michelle Phillips, Senior Environmental Scientist of the CDFA Nursery, Seed, and Cotton Program, provided general housekeeping information.

2. Sampling and Testing Task Force Report

Richard Soria and Allison Justice summarized their research on approved laboratories and sampling requirements.

Soria provided a list of Bureau of Cannabis Control (BCC) approved laboratories. He explained that he had contacted various BCC laboratories and found that most laboratories would utilize the same equipment for cannabis testing to conduct industrial hemp testing. The laboratories explained that they would clean the equipment between uses. He also reported that some laboratories offered sampling services.

Justice explained that South Carolina required sampling and testing of industrial hemp to be conducted by an International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 17025 accredited laboratory. Processors, growers, and laboratories were required to retain testing results for three years. She noted that at least one sample was collected per variety.

Justice expressed concerns regarding South Carolina's method since some individuals might take advantage of the broad allowances. She recommended using South Carolina's method as guidance to establish California's sampling and testing requirements but not completely mirroring it.

Justice proposed to require industrial hemp testing to be conducted by ISO/IEC 17025 accredited laboratories, which included the BCC licensed laboratories for cannabis testing. Justice explained that the eight BCC laboratories she contacted stated that they were already analyzing industrial hemp and reiterated that the laboratories sterilized the equipment between tests. Justice recommended to not place requirements which would impact the laboratory's operations to avoid limiting the number of laboratories.

Justice suggested to require the grower to submit a completed pre-harvest report to the commissioner in order to request for sampling. Justice offered two options for sampling procedures for the Board's consideration. One option was to have a representative of the county and the grower collect the sample. The other option was to allow the grower to collect the sample with a representative from the laboratory. Justice noted that the laboratories she interviewed reported that they would only charge for mileage to collect the sample.

In both scenarios provided, Justice explained that the sample would be sent to the laboratory with chain of custody. The laboratory would send test results back to the grower and the county. Based on the results, the grower would be required to submit a harvest or destruction report to the county. The county would be responsible to confirm the destruction of the crop.

Justice provided an example of a proposed harvest, destruction, or remediation plan. She noted that a detailed remediation plan would be required for county approval.

Justice indicated that she and Soria considered allowing the grower to choose either a county representative or a laboratory representative to sample. However, Justice expressed concerns that this option would not assist the county in determining the staffing needed to collect samples.

Serbin asked whether a pre-harvest report was needed since it is a duplication of the registration information. Soria agreed that the information on the pre-harvest report should be located on the registration application, but it could not be confirmed since the application was not yet available. Justice explained that information on registration application may be revised after registration.

Serbin asked whether additional forms as presented could be developed. Joshua Kress responded that any requirements would require the promulgation of regulations, including any required notifications and forms.

Kress clarified that the information on the registration application was required by law and that any changes after registration required notification to the county. However, the pre-harvest report would provide the anticipated harvest date, which is not collected on the registration application. Kress explained that although requiring the registered information is not necessary, it may assist in assuring that the information is current and accurate. Serbin agreed.

Serbin stated he preferred the second option to lessen the burden on the county to meet the demands for harvest. Rick Gurrola explained that the pre-harvest report provided the needed notification to prepare and schedule sampling activities. Gurrola recommended presenting both options to the other commissioners for feedback.

Gurrola noted that he believed Senate Bill (SB) 1409 specifies the parties involved with sampling and testing. Gurrola pointed out that both options included remediation which conflicted with existing law.

Valerie Mellano asked what fees would be associated if the county was responsible for sampling activities. Gurrola responded that there would be costs associated to cover the time and mileage for conducting sampling.

Tom Pires asked if fees for other crops would differ from the anticipated fees for hemp sampling and inspection. Gurrola replied that the fees would differ from other crops because each crop would be treated differently. He explained that fees for other inspections would generally be set by the county board of supervisors. Kress added that existing law allowed the county to recover all expenses pertaining to the industrial hemp program.

Pires asked whether the laboratories had set fees for various services. Soria explained that the testing fees for cannabis compliance testing would be around \$500 in addition to mileage reimbursement for sample pick-up. Justice speculated that cannabinoid analysis would be under \$200 but noted that she did not specifically request that information from the laboratories.

Joshua Chase stated that THC analysis from a local laboratory in Monterey and Santa Cruz County was \$75. He expressed support for the second option to minimize the grower's costs. Chase did not know if the laboratory would retain the samples.

Justice thought that Chase's estimated cost sounded accurate for THC testing; however, she estimated that an analysis of all cannabinoid would be approximately \$130. She noted that the laboratory would retain the sample for a few years if requested.

Van Butsic suggested to allow counties to select between the two options in order to facilitate the counties' support for industrial hemp cultivation. Kress explained that if the Board allowed counties to have discretion, it would allow for variation in sampling procedures from one county to another.

Serbin expressed that the Board should consider the financial burden and delays in scheduling to the grower if the county sampled and asked for a grower's perspective. Pires expressed that he preferred the second option as a grower.

Justice shared her personal experience of having a laboratory representative collect samples and explained sampling was completed within one or two days of the request. Serbin expressed concerns over the county's ability to meet the sampling workload. Gurrola remarked that hiring varied from county to county and counties would hire additional staff including seasonals based on the workload.

Pires commented that the laboratory should be able collect sample as they might be required to pick up sample from the collection site.

Serbin asked about sampling frequency. Justice clarified that a sample would be collected for each variety per site.

George Bianchini suggested that the Board make recommendations on sample volume, sample composition, and harvesting timeframe. Bianchini also recommended that the definition of destruction should include remediation and allow for retesting. Bianchini stated that

medical/adult-use cannabis laboratories should not be allowed to test industrial hemp because of the lack of cleaning standards to ensure cross contamination. He also stated the THC analysis should only include THC before artificial modification to the cannabinoid profile.

Randy Jordan, United Hemp Farmers, requested clarification on whether THC testing included only THC or other cannabinoids. He recommended reviewing testing procedures in Oregon and Colorado.

Chris Boucher, Farmtiva, echoed Bianchini's suggestion to test for only delta-9 THC. He recommended research into the calibration of laboratory equipment.

Wayne Richman, California Hemp Associations and California Hemp Foundation, recommended to require separate laboratory equipment for cannabis and industrial hemp since cleaning procedures might not remove all residues between tests.

Serbin asked Kress whether the law required testing for THC or delta-9 THC. Kress responded that existing law only referenced THC and not delta-9 THC. Serbin recommended the Board specify in the testing procedures for only delta-9 THC and not THC.

Serbin asked about the accuracy of laboratory testing equipment. Soria replied that laboratories conducting THC analysis would clean the equipment between uses. Soria reiterated that the grower would select the laboratory.

Justice stated that did not find standard procedures for THC analysis through her research. Justice expressed concerns that adding requirements to separate testing equipment for cannabis and industrial hemp would limit the number of laboratories that could conduct THC analysis.

Mellano expressed concerns regarding the potential destruction of a crop based on a single test. She suggested to have a second testing in order to avoid any potential false positives. Kress replied that the law provided for additional sampling of plants that tested above .3% THC and did not exceed 1%.

Mellano expressed the need for a second testing for any failed laboratory test report. Serbin stated that the testing would need to follow the law but asked for clarification. Kress responded that CDFA did not have any discretion to change existing law. However, if the Board would like to make recommendations in conflict with the current or proposed law, the Program would pursue with the knowledge that there would be limitations on what could be enacted.

Serbin asked to whether SB 1409 addressed testing. Chase replied that there was proposed language in SB 1409 to change the destruction time period.

Pires asked if the grower could choose to have multiple samples at their own cost. Kress replied that the Board previously recommended that at least one composite sample should consist of at least five samples from different plants. Therefore, there would be no conflict if a grower decided to have multiple samples. Serbin added that the grower could conduct their own testing to track the THC levels in the crop prior to the official sampling.

Mary Bright recommended to split the sample prior to testing, similarly to blood and urine sampling. She explained that if the first sample tested above the THC limit, then the second sample would be tested afterwards at the same or different laboratory.

G.V. Ayers, Gentle Rivers Consulting, stated that the current law and SB 1409 did not limit testing to a single test. SB 1409 authorized the department to develop testing procedures for the accuracy and sanitation of samples and fields. Ayers explained that additional procedures to ensure accuracy could include additional testing.

Soria noted that according to SB 1409, the grower shall submit additional samples for testing. Soria explained that the grower could test as many times as necessary during the growing season to track the THC levels.

Richman noted that SB 1409 had not been signed into law and suggested the Board not to make recommendations based on the assumption that SB 1409 would be signed. He stated that changes to federal law would have significant impact on ongoing efforts by the Board.

Butsic asked if there were any issues with adopting testing laboratory requirements as proposed. Butsic explained that the market would quickly adapt to the industry's needs. He did not feel that it was necessary to require separate equipment for cannabis and hemp testing.

Kress summarized the Task Force's recommendation for ISO/IEC 17025 accredited testing laboratories. He explained that current law required testing laboratories to be registered with the U.S. Drug Enforcement Administration. However, the laboratory requirement proposed by the Task Force could be added to the list of the Board's recommendations for sampling and testing, allowing CDFA to act quickly once the law is changed. Kress requested the Board to determine if there was a consensus on the testing laboratory requirement as proposed.

Board Motion #1:

Soria moved to recommend that the testing laboratories conducting THC analysis be ISO/IEC 17025 accredited. Justice seconded the motion.

Joshua Chase asked if the motion was to include a recommendation on who would collect the sample. Lawrence Serbin recommended addressing each recommendation separately. Joshua Kress explained that the Board could either amend the motion to include additional recommendations or have separate motions for each recommendation.

Serbin added that another recommendation for consideration is to specify THC as delta-9 THC. Kress requested the Board to handle any recommendations on testing method separately as it would require a review of previous recommendations for testing.

Soria amended his motion to recommend that the testing laboratories conducting THC analysis be ISO/IEC 17025 accredited and that samples be collected by a laboratory representative and the grower.

Butsic asked to include retesting in the current motion. Kress clarified that the current motion was to address the "who," but the Board could expand on the current motion. Butsic opted to have the current motion continue.

Ayers recommended that the Board's motion be contingent upon signing SB 1409. He stated that although SB 1409 specifies "department-approved laboratories," it should be specified that it would not include a registration requirement for laboratories. Ayers also suggested a bifurcated option for the official sampler to allow county participation.

Jordan expressed that a test report, which is considered passing in Oregon and Colorado, would not pass in California due to the inclusion of THC-A. Kress replied that existing law specified THC as three-tenths of one percent but did not include any rounding or consideration.

Gurrola expressed concerns of not including the commissioners in the sampling activities and recommended that the commissioners are given the option to participate in the sample collection. He explained that some commissioners would want to be involved in the sample collection process if they are responsible for the harvest and destruction process.

Mellano asked whether the commissioners had general authority to observe the sample collection process without specifying in regulation. Gurrola explained that he was not aware of any existing law that would preclude or exclude the commissioners but highly recommended to include language for counties whom would want to observe.

Serbin asked for clarification on commissioner's need for involvement with sample collection. Kress explained that the commissioner might be required to take regulatory action based on test results from a sample collection with no regulatory oversight. Gurrola agreed.

Chase suggested allowing the commissioner to oversee the second sample collection if a crop required additional testing.

Soria stated that the commissioner could conduct site inspections on any registered cultivation sites. Soria had no issues with including the option for the commissioner to participate in the sample collection process if needed. However, Soria supported the idea of having the laboratory collect the sample with the grower in order to develop the new industry.

Serbin asked for clarification on county's concern on not being involved with the sample collection process. Gurrola stated that the commissioner would want regulatory oversight on the official sample taken. Kress provided pathogen testing as an example where regulatory action would not be taken until a sample was taken by a county or state official.

Serbin suggested allowing the commissioner to take an official sample if the crop was tested above the THC limit. Gurrola offered removing the commissioner's responsibilities of confirming the destruction and harvest activities as another option.

Serbin asked if the law required the commissioner to be responsible for overseeing destruction activities. Kress replied that existing law did not address oversight of crop destruction.

Soria amended his motion to recommend that the testing laboratories conducting THC analysis be ISO/IEC 17025 accredited and samples be collected by a laboratory representative and the grower.

Mellano recommended that the motion be two separate motions, one for the testing laboratories and another for the official sampler, to keep it simple.

Richard Soria amended his motion to recommend that the testing laboratory conducting the THC analysis of industrial hemp be International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 17025 accredited. Allison Justice seconded the motion.

The Board voted on Motion #1 as follows:

Yes: Van Butsic, Joshua Chase, Rick Gurrola, Allison Justice, Valerie Mellano, Tom Pires, Lawrence Serbin, and Richard Soria
No: None
Abstained: None
Absent: Matt McClain, David Robinson, John Roulac

Motion carried.

Board Motion #2: Richard Soria moved to recommend that industrial hemp samples for THC analysis be collected by a laboratory representative and the grower. Tom Pires seconded the motion.

Butsic questioned if it was possible that a grower might have difficulties locating a laboratory in the proximity of the growing site and suggested allowing the county to collect the samples. Serbin responded that the same could occur for the county personnel and that a laboratory representative would be more inclined to travel.

Lane Labbe, from Plumas County, asked if the term “laboratory representative” referred to an employee. Soria confirmed that a “laboratory representative” refers to an employee of the testing laboratory.

Mellano asked if the recommendation could be amended to allow the sample to be collected by laboratory representative or the commissioner with the grower. Soria replied that he had no issues with that amendment. Mellano explained that the grower would still maintain oversight of the sample collection and that it would allow the commissioner to participate in the sampling process. She noted that the Board would need to specify who would decide if the sample is to be collected by the laboratory representative or the commissioner.

Chase suggested specifying that the grower can choose between a laboratory or county representative to collect the sample. Serbin expressed concern that such option would lead to a financial burden on the county and require higher fees to recover costs.

Justice asked if there was any issues from the county’s perspective to give the commissioner discretion to choose to collect the sample or have the laboratory collect the sample. Gurrola responded that he did not see any issues with it.

Mellano noted that allowing the county to select who would collect the sample would also alleviate any concerns for counties that did not want any involvement. Gurrola explained that many counties would prefer to take the official sample to maintain regulatory oversight.

Jordan suggested splitting the sample and providing the commissioner with one of the samples. Mellano explained that the concern was mainly on the collection of sample and not the receipt of the sample. She noted that the county’s involvement in the sample collection process was important for the accuracy of the sample and necessary for chain of custody.

Jordan replied that the laboratories are certified, thereby being capable of collecting the samples. Kress explained that although the laboratories would be accredited, there was no government oversight over the laboratories.

Poonam Chandra, Senior Environmental Scientist with CDFG Center for Analytical Chemistry, stressed that the quality of the test results is dependent on the quality of the sampling, which

could lead to difficulties for regulatory enforcement if sample was collected without the county's oversight.

Butsic supported allowing a commissioner or laboratory representative to collect the sample and stressed that not providing the county the option to participate in sampling might result in some counties not allowing industrial hemp cultivation. Mellano included that the county agricultural commissioner might not have the time or staffing to meet the sampling workload. Mellano expressed the need to address who would have the discretion to choose between the county and a laboratory representative to conduct the sampling.

Gurrola stated that the county board of supervisors would provide direction to the commissioner on whether the crop could be grown in the county. If both options for sampling were available to the county, the county board of supervisors would also make that decision.

Kress summarized that the motion was to recommend that industrial hemp samples for THC analysis be collected by a laboratory representative and the grower. Kress reviewed the two alternatives to the motion: a recommendation to provide discretion to the grower to select the sampler and a recommendation to provide discretion to the commissioner to select the sampler.

Serbin suggested that the Board votes on the motion as presented by Soria and vote on the alternatives if the motion as presented did not carry.

Jordan asked about sampling and testing for other crops. Kress responded that the sampling and testing procedures varied based on the crop and program. Generally, governmental officials would collect the sample.

Tony DeVeyra, California Hemp Foundation, asked about the nature and quality of the samples. Justice and Serbin replied that it was addressed in the August 28, 2018 meeting. Kress elaborated that recommendations on sampling were made at August 28, 2018 meeting but did not address who would take the sample and who would conduct the testing.

The Board voted on Motion #2 as follows:

Yes:	Joshua Chase, Tom Pires, Lawrence Serbin, and Richard Soria
No:	Van Butsic, Rick Gurrola, Allison Justice, and Valerie Mellano
Abstained:	None
Absent:	Matt McClain, David Robinson, John Roulac

Motion failed.

Justice commented that she preferred the flexibility to the commissioner to decide whether county or laboratory representative would collect the sample. Chase expressed his preference to provide discretion to the grower for cost control as well as more availability to samplers.

Justice noted that providing discretion to the grower would provide governmental oversight and consistency within the county for sampling. Kress stressed that providing discretion to the grower does not clarify the counties' role and may cause difficulties for the county to prepare for the workload.

Serbin summarized the counties' concerns for governmental oversight on sampling in order to take enforcement actions. Gurrola explained that counties would need to be involved in all

aspects of the sampling and testing process in order to take regulatory action. Gurrola offered removing the commissioner from any regulatory oversight roles as an alternative.

3. Review of Minutes from July 25, 2018 Board Meeting

The draft minutes from the July 25, 2018 Board Meeting were presented to the Board. No changes were requested.

Board Motion #3: Lawrence Serbin moved to accept the minutes for the July 25, 2018 Board Meeting as presented. Allison Justice seconded the motion.

The Board voted on Motion #3 as follows:

Yes: Van Butsic, Joshua Chase, Rick Gurrola, Allison Justice, Valerie Mellano, Tom Pires, Lawrence Serbin, and Richard Soria
No: None
Abstained: None
Absent: Matt McClain, David Robinson, John Roulac

Motion carried.

4. Crop Destruction Materials Task Force Report

Chase summarized the destruction requirements from 19 states. Out of the 19 states, Chase noted:

- five states required crops to be destroyed in a manner approved by the department
- four states required crops to be destroyed either using a specified method or in a manner approved by the department
- two states allowed reconditioning or remediation
- one state required crops to be destroyed by the department
- five states did not have destruction methods outlined in law or regulations
- two states did not have an industrial hemp program

Various destruction methods listed by other states included crop seizure, burning or incinerating, plowing or incorporating the crop back into soil, or remediation into usable products.

Chase reported that he had reviewed the destruction methods for Arizona, Minnesota, Oklahoma, South Carolina, and North Carolina. Chase summarized statutory destruction requirements and noted that SB 1409 proposed changes to the timeframe and that destruction must take place for crops that have been found to contain more than 1% THC.

Chase noted that the dictionary definition of ‘destroy’ included ruining the condition of the product and proposed remediation to ruin the structure of the plant. Chase read the Crop Destruction Materials Task Force’s proposal for remediation. The task force proposed that the grower would submit a form detailing the destruction method to the commissioner. If there was any destruction methods that included remediation into a product, a sample of the product would be taken to confirm the THC content is less than 0.3% prior to allowing the product to enter the marketplace.

The task force recommended the following crop destruction methods:

- Allow the crop to be harvested, processed, and used for fiber and/or any other lawful purpose and require any waste byproducts to be incorporated back into the soil, incinerated, or blended with other organic matter.
- Allow the crop seed to be harvested, processed, and used for food products and require any waste byproducts to be incorporated back into the soil, incinerated, or blended with other organic matter.
- Allow the crop to be incorporated back into the soil, incinerated, or blended with other organic matter.

Chase listed questions that remained unanswered by the task force, which included the responsibilities for the processor or manufacturer, the penalties for late destruction, and the handling of crops transported out of the county for processing or manufacturing.

Pires stressed the importance of avoiding a total financial loss for the grower.

Serbin reiterated Pire's comment and asked for suggestions on how to interpret destruction. Chase explained that the proposed destruction method provided three different methods with some basic common requirements.

Serbin asked if the task force had any recommendations on confirming destruction or remediation. Chase responded that the grower would submit a crop destruction report, which was similar to Wisconsin's destruction report, and the destruction would be overseen by the county agricultural commissioner or law enforcement. Chase outlined the contents of the destruction report.

Kress clarified that the task force's recommendation included three destruction options for the grower to choose from and not options for the Board to recommend. He noted that the Board would need to address the process for remediation or destruction and identify the responsible party to oversee the remediation or destruction.

Serbin asked for clarification on the proposed destruction methods. Chase reviewed the three proposed destruction options.

Soria asked for clarification on the purpose of each proposed destruction methods. Chase noted that the first option addresses remediation for fiber, the second addresses remediation for seed, and the third option is for crop destruction. Soria asked which states allowed for remediation for fiber. Chase explained that remediation for fiber would depend on the crop grown.

Mellano asked that the options be left to the grower to select. Chase confirmed the grower would choose a destruction method.

Gurrola asked if CDFA received a legal opinion on destruction. Kress replied that the program had not sought a legal opinion on destruction. Gurrola recommended that the program request a legal opinion on the legislative intent on crop destruction. Kress stated that the program would request for a legal opinion to determine if CDFA has the authority to implement the Board's recommendation.

Serbin asked whether seed acquired through crop destruction would be allowed to enter the marketplace as grain. Chase replied that the seeds would be sterilized and rendered non-viable for planting. Instead, the seeds would be made into food products and hemp oil.

Serbin asked if harvesting seeds from a crop grown from certified seed was allowed since existing law required the use of only certified seed. Kress replied that the recommended amendment to the list of approved seed cultivars included sources for both certified and non-certified seeds.

Kress reviewed North Carolina regulatory language and reiterated that the language came from proposed rules and was subject to change. Chase clarified that the concepts for remediation and destruction methods was derived from multiple states, but he mirrored remediation language from North Carolina and South Carolina since those states, out of the 19 states contacted, allowed remediation.

Kress noted that a letter from Richman regarding this topic was provided to the Board. Richman recommended having two tests prior to requiring destruction and allowing the crop to become licensed in the cannabis system. Kress explained that the cannabis system requires materials cultivated to be part of the track and trace system and asked for Richman's proposal on how material grown as industrial hemp would be incorporated into the track and trace system. Richman replied that there would be a discussion working out the logistics.

Serbin asked about the cannabis licensing process and if there would be feasible transition from industrial hemp to cannabis. Richman suggested that the transition would be an administrative action since cannabis and industrial hemp are both regulated by CDFA.

Gurrola asked how it would be handled if a county allowed industrial hemp cultivation but prohibited cannabis cultivation. Richman stated that further discussion was needed before considering destruction.

Mellano commented that certain counties and cities issued a limited number of cannabis licenses. She explained that giving industrial hemp growers priority to cannabis licenses in those counties or cities would be complicated. Richman recommended that cannabis licenses issued to industrial hemp growers would not be counted towards the county's or city's licensing cap.

Butsic commented that the Board had no involvement in the permitting process for cannabis cultivation. Richman explained that commissioners play a role in permitting both crops. Butsic reiterated that the Board would not be able to implement the recommendation.

Bouche commented that anomalies might occur in THC testing due to various environmental factors and other variables. He explained that destruction can be costly and asked who would be responsible to pay for destruction if the grower did not have the financial resources to pay. Bouche suggested remediation to allow for grower to recoup some of the financial loss.

Ayers asked about CDFA's authority to define destruction and destruction methods. Kress stated if destruction needed further clarification, it would be further specified through regulation. Ayers confirmed that there was a need for further specification.

Labbe suggested allowing the processing of industrial hemp including the extraction and removal of THC be an acceptable method of remediation. Serbin asked if extraction of THC would be a sufficient method of remediation. Chase stated that the proposal would need a legal analysis as by-products would need to be under 0.3% THC.

Pires stressed the importance of allowing remediation for growers since a crop could test above the THC limit despite the grower's effort to cultivate a legal crop.

Serbin summarized the three remediation options and noted that remediation would minimize the impact to growers cultivating industrial hemp for fiber and seed. However, someone growing for CBD would not be allowed to remediate and sell the CBD. Chase stated that the proposed remediation would allow a grower to process the material and reduce the THC content by blending with organic matter or extracting the THC material. Chase noted that the proposal required any lawful products and by-product to be within the THC limit.

Serbin inquired if the proposal was compatible with existing law. Kress explained that further review would be needed to determine if remediation met the definition of destruction. Any products containing no more than 0.3% of THC would meet the legal definition of industrial hemp. However, there was no standard for testing industrial hemp products for THC content. Kress explained that Division 24 of the California Food and Agricultural Code only addressed cultivation. The remediation proposal did not identify the responsible parties to oversee the remediation process and test the products nor specify the process or system for the processing and manufacturing of those products.

Gurrola requested for the legal definition of destruction. Kress explained that it would be explored further whether the proposed remediation would meet the current or proposed law.

Serbin suggested making a recommendation on the proposed destruction method and return to the task force a new proposal if the recommendation did not meet the legal definition of destruction.

Serbin commented that incorporating remediation for CBD into the proposed remediation options would not be feasible since it would defeat the purpose of the destruction requirement. Allowing extraction for CBD would also require a process that goes beyond the farm. Chase replied that there would be by-products above the 0.3% THC limit in each given scenario. Serbin explained that industrial hemp grown for fiber would be left out to dry which would destroy the THC in the material. Industrial hemp seed coats contain some THC, but would be generally destroyed through the harvesting process. Serbin noted industrial hemp production would have THC in the buds that would need to be destroyed.

Jordan suggested homogenizing the industrial hemp material with other matter to reduce the THC content. Chase replied that the proposal provided blending the material with organic matter as a method to lower the THC content.

Bianchini explained that Nevada allowed industrial hemp that exceed the THC limits to enter the cannabis marketplace. He explained that growers would have THC through the extraction process that would need to be legally addressed. Chase stated that industrial hemp would not be able to move into the cannabis market unless the law changed.

Board Motion #4: Van Butsic moved to recommend allowing the grower to decide on a destruction method if the industrial hemp crop tested above 0.3% THC. The destruction method included a remediation option for the crop to be used for fiber or denatured seed for food products or destroy the crop by plowing the crop under. Lawrence Serbin seconded the motion.

Soria asked the questioned about the remediation of the crop for food. Kress explained that one of the remediation options allowed for the use of the denatured seed in food products. Chase explained that the remediation option for the seed would require that the seed was rendered non-viable for planting.

The Board voted on Motion #4 as follows:

Yes: Joshua Chase, Tom Pires, Lawrence Serbin, Richard Soria, Allison Justice,
Valerie Mellano, Van Butsic
No: None.
Abstained: Rick Gurrola
Absent: Matt McClain, David Robinson, John Roulac

Motion carried.

Serbin asked about verification of destruction. Chase stated that the proposal included verification by the commissioner and therefore sampling and testing would need to be overseen by the county agricultural commissioner.

Serbin reviewed the destruction process of a crop tested above the THC limit. He noted that the commissioner would be required to confirm that the crop was destroyed in a manner selected by the grower. Chase stated that the proposal did not specifically address the confirming of the destruction of the by-products, but the proposal did require the commissioner to confirm the THC levels in the final product.

Gurrola reiterated the lack of standards for testing products or by-products. Chase explained that the testing would be required by ISO/IEC 17025 accredited laboratories. Kress noted that the sampling and testing method recommended by the Board addressed testing field crops but did not cover sampling and testing for products.

Justice inquired if testing was required for fiber and seed products. She noted that destruction would require only visual verification. Serbin agreed with Justice but emphasized the need for verification on the products as well.

Serbin asked if the county would need to be involved with destruction and overseeing the remediation. Gurrola explained that destruction would be part of the regulatory oversight, and therefore the county would need to be involved. Gurrola stated that he abstained from voting on the motion regarding destruction because he did not know if remediation met the legal definition of destruction.

Kress asked about the county oversight of destruction of other crops. Gurrola cited crops grown for certified seed and illegal pesticide residues. Kress asked what the county's process would entail for destruction verification. Gurrola stated that he had not had experience in his county with destruction verification other than confiscating material at nurseries for sudden oak death disease in which the material was double-bagged, and the county witnessed the material be buried in a landfill.

Butsic asked if there was a different party other than the county to verify the destruction.

Richman recommended that the grower should be entrusted to self-police themselves.

Kress asked if the Board would like to assign the task to a group to conduct further research destruction oversight.

Serbin recommended limiting the involvement of law enforcement and county to reduce costs for growers. Serbin requested for the destruction task force to research on the verification of destruction.

Chase agreed to look at other states to see how they oversee remediation and destruction. Pires stressed the importance of an accurate way of verifying crop destruction. Chase speculated that other agencies will become involved as the industry is developed. Serbin agreed with Chase but reiterated that method is needed for destruction of field crops. Chase stated it would be impossible for the commissioners to witness the destruction of crops from start to finish and there would be a need for trust in the growers. Chased stated that law enforcement would be involved down line for any illegal operations.

Mellano asked if reinspection similar to pesticide violations would be applicable to industrial hemp destruction. Gurrola replied that verification activities were based on the size of the operations to ensure what was supposed to be done was completed.

Justin Eve, 7 Generations Producers, recommended that the Board provide a legal definition to destroy before making recommendations on destruction. Kress confirmed that the program will seek a legal definition of destruction.

McDaniels commented that industrial hemp should not be destroyed. Instead, McDaniels recommended letting farmers keep the allowable THC amount through extraction and provide any remaining extracted THC to the state and county.

5. Report from CDFA on Status of Registration Process

Phillips provided an update on the regulations for registration fee and methodology to update the list of approved seed cultivars. The regular rulemaking for the registration fee was in the final stage of internal review. The text for the methodology to update the list of approved seed cultivars had been developed and would be presented at the upcoming board meeting.

Serbin asked about the rulemaking process. Kress replied that there was an internal review for any proposed regulations prior to the availability for public comments.

Chased asked about the timeframe for the registration fee regulations. Kress responded that the text had been actively reviewed. Kress explained that there were no statutory timelines for the rulemaking.

Chase asked about emergency rulemaking. Kress replied that an emergency rulemaking would generally require an emergency that meets the criteria outlined in the Administrative Procedure Act and that establishing a fee would generally not constitute as an emergency. Kress explained that the program could explore the option if the Board would like to.

Kress clarified that in order to update the list of approved seed cultivars, a methodology and procedure to update the list of approved seed cultivar was required to be established before amending the list of approved seed cultivars. The Board recommended that the method to update the list provided at least a 30-day notice for a public hearing. The hearing would be a scheduled Industrial Hemp Advisory Board meeting. Once the proposed regulations for the methodology and procedure to update the list of approved seed cultivars were reviewed and that the Board approved the proposed methodology and procedure to update the list, then the list of approved seed cultivars would be amended in accordance to the established regulation.

Pires asked about the registration fee regulation. Kress explained that the Department was currently reviewing and approving the rulemaking.

Richman expressed concerns regarding the delay in registration and asked about the registration application. Kress replied that sample of the registration application was provided on the January 18, 2018 meeting. The registration application only included information required by law and the Board did not recommend any additional changes.

Richman asked when the registration would be available for growers to prepare as seed supply was limited and requested for a legal staff member to attend future board meetings. Kress responded that there was no established timeframe for registration.

Eve provided a letter to the Board requesting CDFA to list and outline steps necessary for registration to commence.

Chase asked if other regulations would have similar timeframe to the registration fee rulemaking. Kress responded that all other regulations would go through similar process. However, timeframes would vary based on the complexity of the proposed regulations.

6. Additional Public comments

Labbe recommended that the proposed destruction allow remediation to extract THC on site.

Bianchini asked if the Board had any knowledge or comments regarding the removal of proposed language on the county's ability to prohibit cultivation from SB 1409. The board members had no comments. Serbin asked if Bianchini was for or against the removal of the language. Bianchini replied that he supported the removal of the language.

Michael Jensen asked if the Board interacted with California Department of Public Health (CDPH) regarding their restrictions on cannabinoids in food products. Kress stated that the Board was tasked to provide recommendations to CDFA in administering Division 24 of the California Food and Agricultural Code. The Board could not advise CDPH as it was outside of the Board's authority.

Jensen asked if there were any discussions between CDFA and CDPH. Kress confirmed that there were discussions between CDFA and CDPH but could not provide further details.

Chase asked about recommendations on sampling and testing. Serbin replied that the Board needed more information on destruction prior to making anymore recommendations on sampling and testing. Kress noted that there was a motion on an approved testing laboratory, but not a recommendation on who to collect the sample.

Serbin commented that if destruction was overseen by commissioner, then the county would need to be involved with sampling. A decision could be made once there is a determination on who to provide oversight on destruction.

Chase expressed concerns on delaying the rulemaking process, which would lead to delays with planting. Serbin replied that Board should not rush to make recommendations when there was still time before registration would begin.

Kress explained that the program could begin with developing regulations based on the recommendations received so far. Any other recommendations could be added to the regulations. If SB 1409 passed, the program would be authorized to establish department-approved laboratories and would prepare the rulemaking package.

7. Next Meeting/Agenda Items

Mellano suggested to schedule the next meeting for a full day.

The next meeting was tentatively scheduled on October 30, 2019.

Serbin noted that the next meeting should address who would perform the sampling and destruction oversight. Serbin also noted that a discussion on specifying THC as delta-9 THC.

Kress stated that the next meeting should also follow up on the legal definition of destruction. Kress also noted that the next meeting would include the review and approval of the methodology and procedure to amend the list of approved seed cultivars.

Justice requested for a subject matter expert to explain why delta-9 THC is only tested. Kress explained that the federal definition of industrial hemp specified delta-9 THC but stated that the program can find someone to explain that as well as how the testing method would impact the THC analysis. Serbin offered to look into total THC versus delta-9 THC.

Chase suggested a discussion on a state agricultural pilot program if SB 1409 passed and volunteered to provide a report on it. Kress explained that SB 1409 would authorize the Department to established agricultural pilot program.

The Board agreed to schedule the next meeting from 9:30 am to 4:30 pm.

8. Adjournment

Meeting adjourned by Lawrence Serbin at 1:58 PM.

Respectfully submitted by:

Michelle Phillips
Senior Environmental Scientist
Plant Health and Pest Prevention Services

Approved by Board Motion on August 28, 2019.

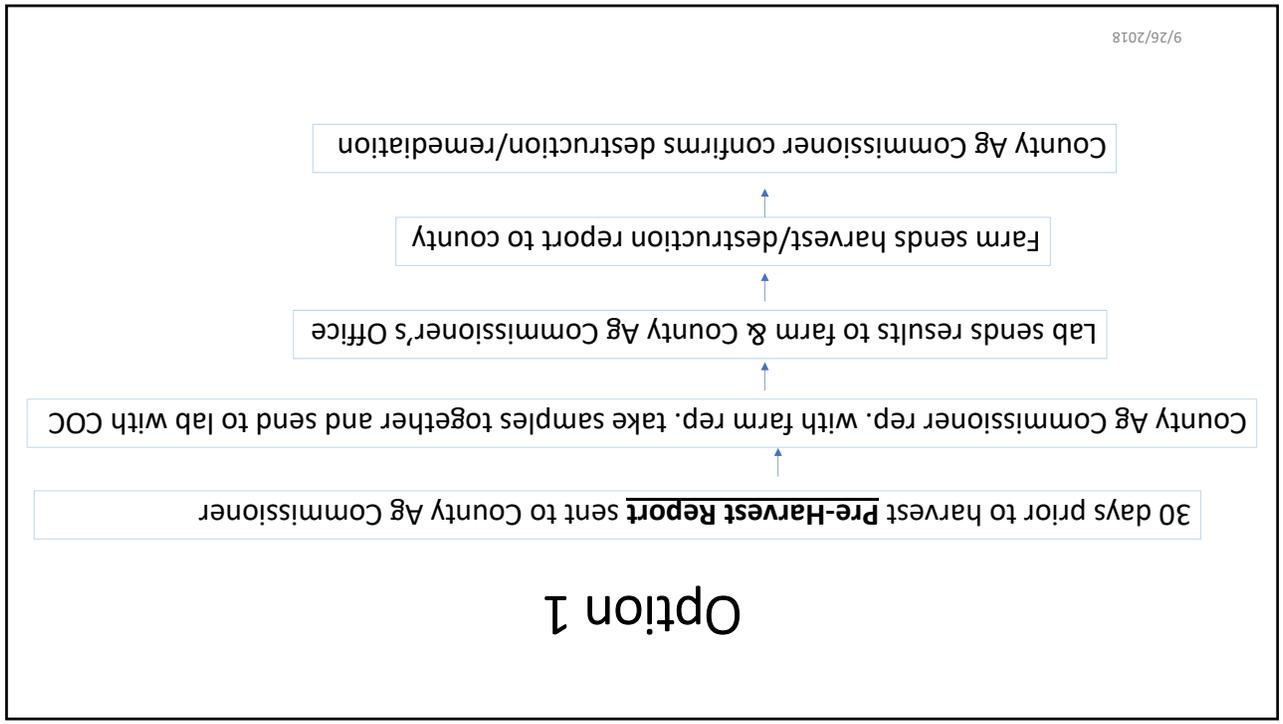
Testing and Sampling

9/26/2018

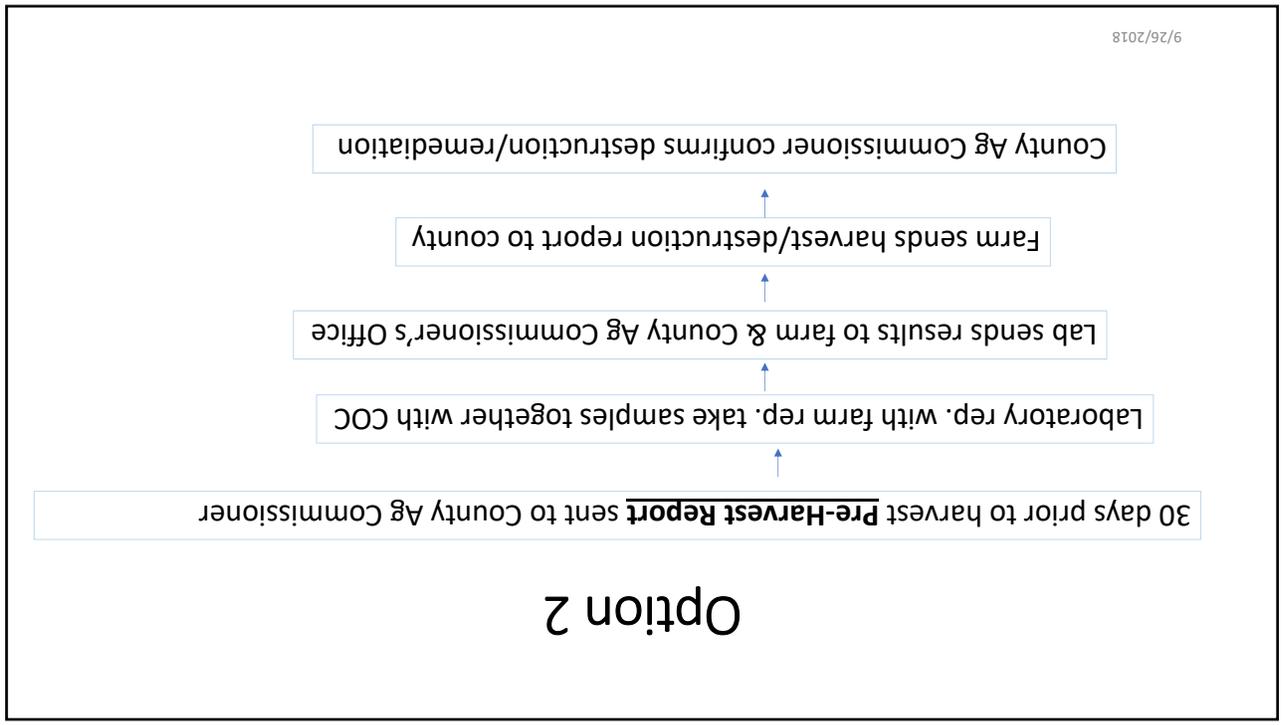
South Carolina- A37, R59, H3559

- Section 46-55-40
- (A) For purposes of this section:
- (1) 'Independent testing laboratory' means any facility, entity, or site that offers or performs tests of industrial hemp or industrial hemp-based products that has been accredited by an independent accreditation body.
- (2) 'Accreditation body' means an impartial organization that provides accreditation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Corporation Mutual Recognition Arrangement for Testing.
- (3) 'Scope of accreditation' means a document issued by the accreditation body which describes the methodologies, range, and parameters for testing for which the accreditation has been granted.
- (B) Independent testing laboratories may test industrial hemp and industrial hemp products produced or processed by a grower or processor.
- (C) All testing performed to meet regulatory requirements shall be included in an independent testing laboratory's scope of accreditation.
- (D) An independent testing laboratory shall demonstrate the ability to accurately quantitate individual cannabinoids in both their acidic and neutral forms down to 0.05 percent by weight, including, but not limited to, delta-9 THC, delta-9 THCA, cannabidiol (CBD), and CBDA.
- (E) Testing is required by an International Organization for Standardization (ISO) Certified Laboratory Facility as approved by an accredited body. The test results must be retained by the grower or processor for at least three years and be made readily available to any state law enforcement agency upon request. Any industrial hemp sample testing at one percent or above delta-9 tetrahydrocannabinol shall be destroyed in a controlled environment with law enforcement present.
- (F) Registered growers shall have a minimum of four random samples per grow tested for delta-9 tetrahydrocannabinol concentrations not more than thirty days prior to harvest. If the grower has planted different varieties, at least one sample from each variety must be tested for delta-9 tetrahydrocannabinol concentrations.
- (G) Industrial hemp or industrial hemp products, intended by a processor for sale for human consumption, shall be tested by an independent testing laboratory to confirm that products are fit for human consumption and meet United States Food Industry standards for food products. Testing shall confirm safe levels of potential contaminants, including, but not limited to, pesticides, heavy metals, residual solvents, and microbiological contaminants.
- (H) All test results and corresponding product batch numbers shall be retained by the registered processor for at least three years.

9/26/2018



- 9/26/2018
- ## Lab requirements
- International Organization for Standardization (ISO) Certified Laboratory Facility
 - These include labs that are permitted by BCC (this is not a requirement)
 - This is 33 labs within the state
 - BCC will NOT regulate testing
 - Of 33, 8 were contacted and state that they already test for hemp and sterilize/clean between all tests



Pre-Harvest Report:

Batch Number

GPS Location

Planting Type (GH/Field)

Area

Planting Date

Expected Harvest Date

Strain

Batch	GPS Location	Planting Type	Area	Planting Date	Expected Harvest Date	Strain
1.1	XX	Greenhouse	200 ft2	June 1, 2019	October 1, 2019	Strain A
1.2	XX	Field	4 Acres	June 1, 2019	October 1, 2019	Strain A
1.3	XX	Field	5 Acres	June 5, 2019	October 1, 2019	Strain B

Harvest/Destruction/Remediation Plan

Batch	GPS Location	Planting Type	Area	Planting Date	Expected Harvest Date	Strain	Testing Date	Test Results (THC % by dry weight)	Plan of Action	
1.1	xx	Greenhouse	200 ft2	June 1, 2019	October 1, 2019	Strain A	September 10, 2019	0.3%	Harvest	
1.2	xx	Field	4 Acres	June 1, 2019	October 1, 2019	Strain A	September 10, 2019	0.8%	Remediate	** See attached
1.3	xx	Field	5 Acres	June 5, 2019	October 1, 2019	Strain B	September 10, 2019	5%	Destruction	**Arrange visit**

Give detailed remediation plan, resubmit samples (\$set fee)

Destruction- on site visit for verification

9/26/2018


**BUREAU OF
CANNABIS
CONTROL**

CALIFORNIA

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY * GOVERNOR EDMUND G. BROWN JR.

Bureau of Cannabis Control

PO Box 419106, Rancho Cordova, CA 95741-9106

P (833) 768-5880 | www.bcc.ca.gov


Testing Licenses

License Number	Business Name	DBA	Record Status	Expiration Date	Business Organization Structure	City	Business Phone
C8-18-0000025-TEMP	COASTAL ANALYTICAL		Active	12/26/2018	Corporation	San Diego	2673035002
C8-18-0000024-TEMP	Encore Labs		Active	12/12/2018	Limited Liability Company	PASADENA	9096183946
C8-18-0000023-TEMP	Consumables Analytical Laboratory, LLC		Active	12/6/2018	Limited Liability Company	SANTA PAULA	8058831155
C8-18-0000029-TEMP	BelCosta Labs Long Beach		Active	12/5/2018	Limited Liability Company	Long Beach	5626764206
C8-18-0000022-TEMP	2 RIVER LABS	2 River Labs	Active	12/2/2018	Corporation	SACRAMENTO	9167173561
C8-18-0000037-TEMP	CSA LA LLC	CannaSafe	Active	11/28/2018	Limited Liability Company	LOS ANGELES	9044223910
C8-18-0000036-TEMP	CanMedLabs, LLC	CanMedLabs	Active	11/22/2018	Limited Liability Company	IRVINE	9493873035
C8-18-0000021-TEMP	CWAL INC.	CW Analytical	Active	11/21/2018	Corporation	Oakland	5105456984
C8-18-0000020-TEMP	Anresco Incorporated	Anresco Laboratories	Active	11/13/2018	Corporation	SAN FRANCISCO	4158221100
C8-18-0000017-TEMP	North Coast Laboratories	Humboldt Quality Assurance Laboratory	Active	11/7/2018	Corporation	ARCATA	7078224649
C8-18-0000016-TEMP	PACLAB ANALYTICS OAKLAND I LLC		Active	11/7/2018	Limited Liability Company	OAKLAND	6199711674
C8-18-0000018-TEMP	PacLab Analytics Humboldt LLC	PacLab Analytics	Active	11/7/2018	Limited Liability Company	EUREKA	8888512617
C8-18-0000019-TEMP	Infinite Chemical Analysis Labs LLC	Infinite Chemical Analysis Labs	Active	11/7/2018	Limited Liability Company	SAN DIEGO	8589359031
C8-18-0000035-TEMP	DEIBEL LABORATORIES OF CA, INC.	Deibel Cannabis Laboratories	Active	11/2/2018	Corporation	SANTA CRUZ	2085390337
C8-18-0000015-TEMP	PacLab Analytics Oakland I LLC	PacLab Analytics Oakland I LLC	Active	11/1/2018	Limited Liability Company	OAKLAND	6199711674
C8-18-0000013-TEMP	SC Laboratories California LLC	SC Laboratories	Active	10/29/2018	Limited Liability Company	Santa Cruz	8664350709
C8-17-0000001-TEMP	pH Solutions, LLC	pH Solutions	Active	10/28/2018	Limited Liability Company	MONROVIA	3107039567
C8-17-0000002-TEMP	STEEP HILL LABS, INC.	Steep Hill Labs, Inc.	Active	10/28/2018	Corporation	BERKELEY	4158589187
C8-17-0000003-TEMP	PURE ANALYTICS, LLC	Pure Analytics	Active	10/28/2018	Limited Liability Company	Santa Rosa	8885057108
C8-17-0000006-TEMP	CB Labs Novato, LLC		Active	10/28/2018	Limited Liability Company	San Rafael	4154966605
C8-17-0000007-TEMP	AMERICAN BIOTECH TESTING		Active	10/28/2018	Corporation	SALINAS	8054304856
C8-17-0000008-TEMP	PharmLabs LLC	Pharmlabs	Active	10/28/2018	Limited Liability Company	SAN DIEGO	6193560898

License Number	Business Name	DBA	Record Status	Expiration Date	Business Organization Structure	City	Business Phone
C8-17-000009-TEMP	SEQUOIA ANALYTICAL LABS		Active	10/28/2018	Limited Liability Company	SACRAMENTO	9169204009
C8-17-000010-TEMP	C3 Labs, LLC	EVIO Labs Berkeley	Active	10/28/2018	Limited Liability Company	BERKELEY	5416334568
C8-17-000011-TEMP	PharmLabs Coachella Valley LLC		Active	10/28/2018	Limited Liability Partnership	COACHELLA	7602798279
C8-17-000012-TEMP	Sonoma Lab Works, LLC		Active	10/28/2018	Limited Liability Company	SANTA ROSA	9165248891
C8-18-000028-TEMP	Brightside Scientific Inc		Active	10/26/2018	Corporation	LONG BEACH	8444205227
C8-18-000034-TEMP	Harrens Lab Inc.	Harrens Lab Inc.	Active	10/23/2018	Corporation	HAYWARD	5108878885
C8-18-000033-TEMP	Evio Labs Humboldt LLC	Evio Labs Humboldt	Active	10/18/2018	Limited Liability Company	EUREKA	7075991998
C8-18-000032-TEMP	PharmLabs Long Beach LLC		Active	10/17/2018	Limited Liability Company	LONG BEACH	5622220562
C8-18-000027-TEMP	PGH LLC		Active	10/11/2018	Limited Liability Company	LYNWOOD	
C8-18-000031-TEMP	QC Labs	Cannalysis	Active	10/2/2018	Corporation	Santa Ana	9493298378
C8-18-000030-TEMP	E-Labs Monrovia LLC	E-Labs	Active	9/21/2018	Limited Liability Company	MONROVIA	4152331080

Industrial Hemp Advisory Board Crop Destruction Task Force

Recommendations to the board, September 26, 2018

Summary of Crop Destruction Requirements From Other States

- Gathered and reviewed information for 19 states
 - All states that have an active industrial hemp program require crop destruction
 - Some states are currently developing regulations to address crop destruction methods
 - Some states do not currently have crop destruction methods outlined in laws or regulations

Summary of Crop Destruction Methods From Other States

Crop Destruction Methods	Number of States
Approved manner	5
Specified methods + approved manner	4
Allow reconditioning	2
Destroyed by department	1
TBA	5
No industrial hemp program/services	2
TOTAL	19

Patterns of “Destruction” we see an other States:

- 1.) Seize
- 2.) Burn or Incinerate
- 3.) Plow or incorporate back into soil
- 4.) Remediate into usable products

ARIZONA

Currently developing regulations regarding crop destruction

Statutorily authorized to seize and destroy crop, harvested crop, or seed out of compliance

MINNESOTA

State law does not specifically require destruction, but allow the commissioner to set rules

Currently working under guidelines set by the commissioner

Under guidelines, crop with excess of 0.3% delta-9 THC is considered marijuana and grower will be asked to destroy crop within in specified time

Law enforcement will be contact if grower does not comply

DENIALS AND VIOLATIONS

- 1.) Applications for a license may be denied if the applicant has been convicted of any felony or gross misdemeanor related to the possession, production, sale, or distribution of a controlled substance in any form within ten years of the date of the application, or has any outstanding warrants for their arrest.
- 2.) A person or entity discovered to be growing industrial hemp without a license or growing industrial hemp in unapproved locations may be subject to license revocation and/or denial for future licensing.
3. Any violations of this chapter may result in revocation of a license or denial of a license renewal.
4. In the event of license or registration revocation, any industrial hemp in possession of the revoked party may be seized or destroyed by the department or law enforcement.
5. All cannabis plants or grow locations found by the department to exceed 0.3% total THC concentration must be destroyed. Approved methods of destruction include burning, tillage, deep burial, or other means authorized by the department. The licensee may voluntarily comply with the destruction order within 15 days. A follow-up inspection will be conducted by the department to verify that the plants or grow locations were destroyed. If no corrective action are made in response to the order, the department or law enforcement will destroy the plants or grow location.
6. A total THC concentration test result greater than 0.3% shall not result in revocation of a license so long as the crop is destroyed in accordance with these rules.
7. A person or entity utilizing industrial hemp in any manner outside of the scope of these rules or in contravention of these rules may be subjected to license revocation or to civil or criminal penalties.
8. Industrial hemp shall be considered marijuana when distributed or possessed by any person not authorized by the department.

OKLAHOMA

Destruction by fire or grower can request an alternative method to be approved by Department

O.A.C. 35:30-24-13. Destruction

- (a) The institutional licensee shall destroy all Cannabis sativa L. plants or plant parts if required by the rules of this subchapter or by order of the Department.
- (b) Incineration is the only acceptable method of destruction unless the Department provides the institutional licensee written authorization for an alternate method of destruction.
- (c) The institutional licensee shall document the destruction of Cannabis sativa L. plants or plant parts, as follows:
 - (1) The institutional licensee shall submit a notification of intended destruction to the Department not less than ten days prior to the date that the institutional licensee undertakes the destruction of the Cannabis sativa L. plants or plant parts, communicate the time and date of the destruction, and allow Department inspectors to be present during the destruction;
 - (2) The institutional licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the Cannabis sativa L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than five (5) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was completed;
 - (3) An officer or employee of the institutional licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.
 - (d) Destruction shall be conducted safely and shall not be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The institutional licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.

SOUTH CAROLINA

Crop testing exceeding 1% THC requires destructions

Crop testing between 0.3% and 1% can be reconditioned

Requires law enforcement to be present for destruction

First year of harvest, no destruction action yet

NORTH CAROLINA

02 NCAC 62 .0104 REPORTING OF SAMPLING

(<https://www.ncoah.com/rules/02%20NCAC%2062%20Proposed%20Temporary%20Rules.pdf>)

(c) Samples with a THC level greater than 0.3% THC shall be **reported** by the Division to the Industrial Hemp Commission and the licensee. The license holder may request a re-test of the sample. If no re-test is requested, or the re-tested sample is greater than 0.3% THC, the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following **disposition**:

- (1) Industrial hemp **stalks may be harvested, processed and used for fiber and/or any other lawful purpose**; or
- (2) Industrial hemp **seed may be harvested, processed, and rendered non-viable for food products**, provided the source of the seed or transplants is seed or a transplants produced from seed or a living plant part which meets the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the North Carolina Crop Improvement Association (NCCIA), including certification by other seed agencies recognized by NCCIA, and include a certifying tag of varietal purity issued by NCCIA or another official certifying agency as defined in G.S. 106-277.2(23).

Current 566 Law

*81006(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, **before the harvest** of each crop and as provided below, **obtain a laboratory test report** indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.*

Current 566 Law Cont.

*81006 (f)(7) A registrant that grows industrial hemp shall **destroy** the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of **THC exceeds 1 percent, the destruction shall take place within 48 hours** after receipt of the laboratory test report. **If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days** after receipt of the second test report.*

Definition of Destroy:

Merriam-Webster Dictionary's Definition of Destroy

1 : to ruin the structure, organic existence, or condition of:

2 a : to put out of existence:

b : [neutralize](#)

c : [annihilate](#), [vanquish](#)

Proposal To The IHAB

In accordance with Section 81006, prior to harvest samples with a THC level greater than zero point three percent THC shall be reported by the approved lab to the California Department of Food and Agriculture (CDFA) and the grower/licensee. The grower/licensee must then submit a form to the County Agriculture Commissioner stating how the crop will be destroyed. If the destruction method involves remediating it into a product that will enter the market place a follow up sample must be taken by an approved CDFA lab to confirm the THC concentration is less than zero point three percent THC. Confirmation of the destruction will be performed by the County Agriculture Commissioner. All costs for destruction will be paid for by the grower/licensee. The following destruction methods to render the final product less than zero point three percent THC are acceptable:

Proposal To The IHAB Cont.

(1) Industrial hemp plants may be harvested, processed and used for fiber and/or any other lawful purpose having a final THC concentration of less than zero point three percent provided the source of the seed or transplants is from the CDFA's list of approved cultivars, a registered breeder or an established agricultural institution. Any waste biproducts from the process must be incorporated back into the soil, incinerated or blended with other organic matter by the grower/licensee to a less than zero point three percent THC concentration; or

Proposal To The IHAB Cont.

(2) Industrial hemp seed may be harvested, processed, rendered non-viable for food products and have a final THC content of less than zero point three percent, provided the source of the seed or transplants is from the CDFA's list of approved cultivars, a registered breeder or an established agricultural institution. Any waste biproducts from the process must be incorporated back into the soil, incinerated or blended with other organic matter by the grower/licensee to a less than zero point three percent THC concentration; or

Proposal To The IHAB Cont.

(3) If the grower/licensee is not going to destroy the crop into a usable form Industrial Hemp plants of greater than zero point three percent THC may be incorporated back into the soil, incinerated or blended with other organic matter by the grower/licensee to a less than zero point three percent THC concentration.

Follow-Up Questions

Are there any responsibilities for the processor or manufacturer?

What happens if it the destruction does not get done in time?

What if the crop is transported out of the county for processing or manufacturing? Who is going to oversee the reconditioning then?

WISCONSIN

Outline specific destruction methods and also allow the use of other methods

Grower notify Department on destruction method by submitting a crop destruction report (2018IHCropDestructionReport ARM-PI-570)

Rule language:

(5) "Destroyed" means incinerated, tilled under the soil, made into compost, or disposed of in another manner approved by the department.

(5) **FAILED RE-TEST.** If a final lab analysis of a delta-9-THC level finds the concentration of delta-9-THC on a dry weight basis exceeds 0.3 percent the entire crop on the field where the sample was collected shall be destroyed by the licensed grower within 10 days.

(6) **FIELD DESTRUCTION.** The department will conduct an inspection to verify that the crop was destroyed as required under sub. (5). If the crop has not been destroyed, the department may destroy the crop and invoice the licensed grower for all costs associated with destruction.

OREGON

Destruction method not outlined in law/rules

Due to marijuana being legal in state, grower must work with Oregon Liquor Control Commission, Oregon Health Authority, and the Department of Environmental Quality

Oregon Liquor Control Commission has list of approved destruction methods

Department of Agriculture works with grower to ensure crop is unusable

See MarijuanaWasteManagement_FactSheet

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=2726>

(3) The Department may detain, seize, embargo the harvest lot corresponding to a sample, as provided under ORS 561.605 to 561.620 and subject to the provisions of ORS Chapter 183, if the sample failed a test under OAR 603-048-0600.

MAINE

Law requires destruction of crop testing above THC limit

Considering methods to ensure no diversion

Methods not outline in law/rules

UTAH

No required crop destruction methods outlined

Grower to determine destruction method with Department approval

R68-24-11. Destruction of Industrial Hemp Material.

- 1) The licensee shall be responsible for the destruction any plant material which tests greater than 0.3% THC by dry weight.
 - 2) The licensee shall work with the department on an approved plan for the destruction of the plant material.
 - 3) The department may destroy the plant material at cost to the licensee.
 - 4) The department may inspect the growing area to verify the destruction of all plant
- Their rules are out for public comment right now, so this is not the final draft.

WYOMING

Program passed into law, but not funded

Developing regulations to implement program when funding is available

Proposed regulations require crop destruction

Grower determines destruction method with Department approval

Grower responsible for cost of destruction

NEVADA

NAC 557.140 Revocation of registration and certification or destruction of plants if sample contains THC concentration exceeding limit. (NRS 557.080) If, after testing a sample of industrial hemp, whether growing or not, the Department determines that the sample contains a THC concentration of more than 0.3 percent on a dry weight basis, the Department may:

1. Revoke the certification and registration of the registrant; and
2. Order the destruction of the plants grown or cultivated by the registrant at the registrant's expense.

(Added to NAC by Bd. of Agriculture by R085-15, eff. 3-10-2016)

NAC 557.200 Civil penalties; use of money collected. (NRS 557.080, 561.153)

1. Violations of the provisions of this chapter or chapter 557 of NRS are subject to the following civil penalties:

- (a) For a first violation, the Department shall impose a civil penalty of \$250.
- (b) For a second violation, the Department shall impose a civil penalty of \$500.
- (c) For a third or subsequent violation, the Department shall impose a civil penalty of \$1,000 per violation.

2. Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:

- (a) Fifty percent of the money must be used to fund a program selected by the Director of the Department that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and
- (b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.

(Added to NAC by Bd. of Agriculture by R085-15, eff. 3-10-2016)

COLORADO

**Grower must submit a destruction plan to Department for approval.
Approval must comply with the state and local rules and the
Department's 3 criteria:**

- Hemp cannot be moved
- Hemp cannot be used for human consumption
- Hemp cannot enter commerce

KENTUCKY

http://www.kyagr.com/marketing/documents/HEMP_LH_THC-Sampling-Testing-Post-Testing-Procedures.pdf

Grower must surrender crop without compensation to Department for destruction

States where they are working on the Destruction Rules

Illinois, Iowa (has no program)

4) Crop Destruction Information

Field number	Variety or strain	Area proposed for destruction (acres, sq. feet or # of plants)	Date Destroyed	Reason for Destruction	Method of Destruction
<i>Ex: Field 1</i>	<i>X59</i>	<i>3 acres</i>	<i>9/1/18</i>	<i>Poor growth</i>	<i>Plow under</i>

5) Will this be a complete destruction of all hemp for this licensee?

Yes
 No
 Other: Explain _____

6) License holder or operations manager signature, verifying the above information is accurate:

SIGNATURE	DATE
-----------	------



September 24, 2018

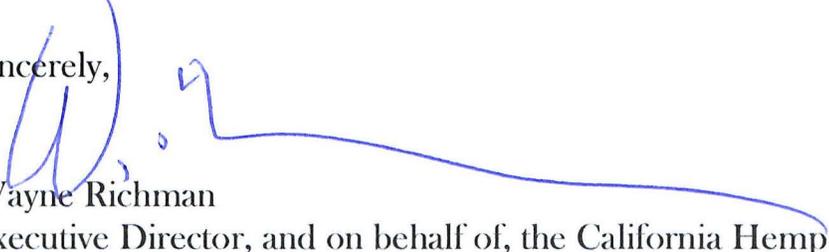
The CFDA/IHAB
Joshua Kress, Michelle Pham
Re: Task Force on Crop Testing / Destruction
Tom Pires, Joshua Chase – Task Force Members
Sacramento, CA 95814

RE: Support of an alternative methodology of crop management in cases of THC levels in excess of .03%.

Dear Crop Management Task Force:

On behalf of the California Hemp Association, I am writing to express our support for a different method of crop management in cases of THC levels in excess of .03%. Namely, it is our members considered opinion that in a state where Marijuana is legal for adult use, that destroying a farmers' Hemp crop should be a final step, not a first step. We propose that there be (2) two THC tests allowed before crop destruction is the next step; and if it does come in above the legal limit for Hemp and specifically before crop destruction, the farmer is allowed to purchase a Cannabis license, because it would push the plant into Cannabis territory legally. This would save the farmer a loss, and earn the Counties a new license fee they would otherwise forego. If the farmer is offered this remedy and refuses either the second THC test or a Cannabis license, then crop destruction is allowed.

Sincerely,


Wayne Richman

Executive Director, and on behalf of, the California Hemp Association

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Proposed Methodology and Procedure to Update the List of Approved Seed Cultivars
For Consideration by the Industrial Hemp Advisory Board
at its Meeting on [date TBD]

In Title 3, California Code of Regulations, Division 4, adopt:

Chapter 8. Industrial Hemp Cultivation

Article 2. Regulations for Industrial Hemp Cultivation

§ 4921. Methodology and Procedure to Update the List of Approved Seed Cultivars.

- (a) The Secretary adopts the following methodology and procedure to add, amend, or remove a seed cultivar from the list of approved seed cultivars.
 - (1) Upon request from the chair of the Board, or of any four members of the Board, the Department shall schedule a public hearing to consider a proposal to update the list of approved seed cultivars by adding, amending, or removing seed cultivars. A notice and text of the proposal shall be made available to the public no less than 30 days prior to the hearing.
 - (2) The public hearing to consider a proposal to update the list of approved seed cultivars shall be part of a regularly scheduled meeting of the Industrial Hemp Advisory Board.
 - (3) The public hearing shall include:
 - (A) Presentation of the proposal to update the list of approved seed cultivars;
 - (B) Presentation of the purpose for the update; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
 - (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny a proposal for recommendation to the Secretary.
 - (5) Upon recommendation by the Board to adopt a proposal and approval by the Secretary, the Department shall amend the list of approved seed cultivars and shall submit the amended list to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
 - (6) The Department shall post the list of approved seed cultivars to its website and shall provide electronic and/or mail notification of amendments to list of approved seed cultivars to parties that have requested notification. An interested party may go to

the Department's website and elect to receive automatic notifications of any changes to the list of approved seed cultivars via an electronic mail listserv.

(b) Amendment of the methodology and procedure.

- (1) By motion, the Board may recommend amending the methodology and procedure in subsection (a). In consultation with the chair of the Board, the Department shall schedule a public hearing to consider the recommendation, and a notice and text of the proposed amendment shall be made available to the public no less than 30 days prior to the hearing.
- (2) The public hearing to consider a proposal to amend the methodology and procedure shall part of a regularly scheduled meeting of the Industrial Hemp Advisory Board.
- (3) The public hearing shall include:
 - (A) Presentation of the proposal to amend the methodology and procedure;
 - (B) Presentation of the purpose for the amendment; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
- (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny the proposal for recommendation to the Secretary.
- (5) Upon recommendation by the Board to adopt the amendment and approval by the Secretary, the Department shall amend the methodology and procedure, and shall submit the amended methodology and procedure to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
- (6) The Department shall provide electronic and/or mail notification of the amendment to the methodology and procedure to parties that have requested notification. An interested party may go to the Department's website and elect to receive automatic notifications of any changes to the methodology and procedure via an electronic mail listserv.

Note: Authority cited: Sections 407 and 81002, Food and Agricultural Code
Reference: Sections 81001 and 81002 Food and Agricultural Code

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Attn:
Industrial Hemp Advisory Board
Nursery, Seed, & Cotton Program

To the Industrial Hemp Advisory Board along with the Directors of the California Department of Food & Agriculture (CDFA). I am a farmer in Sutter County who operates a small USDA Organic Nursery. I am writing this letter to urge CDFA to prioritize establishing registration fees for growers and seed breeders along with establishing procedures for counties to forward registration and renewal fees to CDFA for Industrial Hemp.

One employee is not enough to do the job. Raising funds through fees or going through the regulatory process to get dedicated funds seems to be two options CDFA can use to be able to hire more staff.

Attached is a document prepared by Gentle Rivers Consulting summarizing what the next steps are that need to be taken by CDFA for the regulation of Industrial Hemp.

The California Industrial Hemp Farming Act (SB 566, Chapter 398, 2013) authorizes the commercial production of Industrial Hemp in California. In 2016, Proposition 64 amended that Act to authorize the growth of Industrial Hemp beginning January 2017. Almost 2 years later there is still no active registration process for farmers of California, and all our neighboring states have successful Industrial Hemp programs now operating for multiple years. The boom of Industrial Hemp is the next great agricultural revolution. If there can be \$500,000 dedicated annually to hiring employees for regulation of industrial hemp, California farmers and the CDFA will exponentially benefit from the cultivation of this diverse crop in our great state.

California is the worldwide leader of agriculture, yet it is falling behind every day Hemp cannot be grown in the state. **The best investment CDFA and the State of California can make is to regulate Industrial Hemp.**

Please contact me if there is any way I can be of assistance with my resources. Farmers need better crops. Keeping Industrial Hemp from farmers is setting back all residents of California.

Respectfully,

Justin Eve
7 Generations Producers
Organic CA Nursery

“Working to introduce new cash crops and farming practices for the changing future”



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INDUSTRIAL HEMP REGISTRATION

BARRIERS & SOLUTIONS

BARRIERS

Before growers or seed breeders may register and grow industrial hemp in California, CDFA must complete these steps required by the Industrial Hemp Law:

Requirements for CDFA under current law

- May update the list of approved seed cultivars. To do so, CDFA must first establish a methodology and procedure to update the list (requires hearing and publication, but not regulations)
- Establish registration fee and renewal fee for growers and seed breeders (requires regulations)
- Establish procedures for counties to forward registration and renewal fees to CDFA (may possibly be done without regulations)

New requirements for CDFA under SB 1409 (if signed by the Governor)

- Establish industrial hemp sampling procedures (requires regulations)
- Approve testing laboratories (requires regulations)
- Establish approved laboratory testing method (requires regulations)
- May (not required) establish and carry out an agricultural pilot program (requires regulations)

HOW IS THIS A BARRIER?

The steps above are milestones which must be completed by CDFA prior to farmers registering to grow industrial hemp in California. Five require regulations; updating the approved seed cultivar list does not; it is unclear whether regulations are required to establish county fee forwarding procedures. Regulations would be required for CDFA to establish a pilot program, but a pilot program is not required for grower registration.

For any State Agency to establish regulations, it must follow a detailed, labor-intensive, drawn-out process established in the Administrative Procedures Act. The CDFA industrial hemp program only has one staff person to perform the volume of work required for the regulations. Under ideal circumstances it takes about 12 months to complete a regulatory package, however it often takes much longer than that. With the separate issues (above) that require regulations, the entire process becomes exponentially complicated – much more than can be accomplished by one staff person in a reasonable timeframe.

Since these regulations must be adopted before growers may register and grow hemp, unless circumstances are dramatically changed, it is unlikely that industrial hemp will be grown under a registration in California until 2020.

PROPOSED SOLUTIONS INCLUDE:

- Provide CDFA more resources (staff) to accomplish the regulatory work
- Establish Funding in the State Budget, which is necessary to provide more staff resources
- A Budget Change Proposal (BCP) must be approved through the State Budget process to obtain funding authorization
- It is essential for CDFA to move effectively and expeditiously to complete the industrial hemp registration process