

North Carolina Industrial Hemp Commission

MINUTES

October 11, 2017 9:00 AM

Sen. Bob Martin Eastern Agricultural Center
2900 N.C. Hwy. 125 S. Williamston, NC

Table with 2 columns: Commission attendees, Other official attendees. Lists names and titles of participants such as Guy Carpenter, Chief Tony Godwin, Billy McLawhorn, etc.

Call to Order – Dr. Tom Melton, Chair

Statement Concerning Conflicts of Interest – Dr. Tom Melton, Chair

Recognition of Special Guests – Dr. Tom Melton, Chair

Dr. Melton - asks if Phil Wilson, Division Director for Plant Industry Division for NCDA, is present that he could offer an update.

Wilson – As of today, there are 103 licensed growers of Industrial Hemp in NC, of those approximately 1993 acres and we have 179,617 square feet of green house space that growers are producing industrial hemp. At this time, there have been 137 collected samples and 9 samples have tested with a higher THC level than permitted.

Rascoe – asks follow-up questions to identify if the samples were from certified seed, if there was a correlation to provider or source, variety? Wilson – names varieties – Rascoe – talks about testing history of these varieties. How many of the 9 were that specific variety? Wilson – 5 of the 9. Melton – Clarifies if every time that variety was tested if it tested over the .03, to which Mr. Wilson said no. Also, if there was a likelihood of location or weather conditions that impacted these results, again Wilson said no.

Stewart – How does the acreage numbers in this program compare to what we know of other states in their first year? Wilson – these numbers are higher than any other has ever been in their first year. Impressive for the results in this state. Stewart – recognizes the extensive efforts of the inspectors and others at the Plant Industry Division. Also the Food & Drug and NCDA. Wilson – joins him in acknowledging the many efforts.

Stewart – introduces Tien Cheng with Dept. of Ag who joins us today as legal counsel.

Opening Statement – Dr. Tom Melton, Chair

Public Comment –Public comment will have three minutes to address the Commission and should sign up on the provided sheet to do so. Speakers will be called upon in the order they have signed up.

The Acoustics of the room has challenged direct quotation of these comments below:

- Randy Ransom – interested in commenting on the rule for being a Bona Fide Farmer being reconsidered. He is an established businessman with a family history in farming. He had applied to participate but was not licensed.

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- Nick Sagan – shares with the commission a concern for the pollen from this crop and the distance it can carry. It would be a matter of when and not if this is a serious issue.
- David H. Rouson Sr. – Every farmer, every disabled vet ought to have an opportunity to revitalize the south. Wants to see growth in his county and notes no one needs to monopolize this crop in any one area.

Approval of Minutes from August 30, 2017 meeting – Dr. Tom Melton, Chair

- **Melton** calls for a motion to approve the minutes from the meeting. *McLawhorn makes the motion, Rascoe seconds it. Unanimous vote.*

Order of Business

- Review of application summaries for approval.
 - **Melton** – Begins the review of application explaining the materials submitted with their application packets. He reads the applicants in the group: Jason Whitfield Moore, Abolghasem Shahbazi which is a Research Only applicant, Andre D Richardson, Jessica Seymour, Dwight Howard Clayton, Paul Lawrence Brewington, Howard Larry Gragg Jr., Andrew Keith Crihfield. *Melton Call for questions or discussion, none. He calls for a motion: Rascoe makes the motion to approve. Page seconds. Vote: Unanimous.*
- Introduction of Emily Febles, Program Manager. **Melton** - her duties will consist of everything needed to make the program successful. She is experienced, already on a national stage in IH, from WA, has a law degree. We welcome her and she will be the face and Point of Contact for the program. She will be the information source for the program.
- Review & Finalize changes for permanent rules. Melton established the approach will be to move through the current rules to discuss. All agree.
 - Approved Seed for Planting: *Stewart moves to motion to ask Emily to review this whole section and to address the selection of seed to make sure transplants are included. McLawhorn seconds the motion. Unanimous vote. Stewart* – also in the same rule, but on letter (C) and reads current wording. *Motions to strike that entire section.* Reason that there is no certification for transplants. The rule would place producers of clones at a disadvantage over producers in other states. **Melton** – do you want to take the seed part out as well? **Stewart** – sections (a) 1 & 2 address that. *Melton reviews the motion, Rascoe seconds motion. Discussion – unanimous vote. Stewart* – there is a possibility to review the development of a list of approved or prohibited varieties, as demonstrated by other states. *Makes a motion to delegate authority to the PID to annually maintain a list of prohibited varieties of IH based on testing of THC sampling in NC. Melton* – do we want to state a criterion based on other states experience? **Emily Febles** – one method is to create a varieties of concern list. Varieties that show historically within NC or otherwise that test high in THC. Another is an approved varieties list, as done in Canada, that doesn't get tested any more. **McLawhorn** – in your experience what would you recommend? **Febles** – you could word it to say the rule may delegate the NCDA the ability to develop a list of approved varieties or prohibited varieties. An approved list may have more burden, explaining the difference between varieties, clones and transplants. Encourages the wording of shall or may instead of must. **Rascoe** – would we consider using lists made by other states? **Febles** – it depends, maybe we choose certain states. Recommends more language specifications. *Stewart withdraws previous motion and asserts a new motion that IHC may delegate the authority to the DAG to maintain a list of varieties of concern and the DAG may also come forward to make a recommendation to the IHC to request to prohibit certain varieties based on THC testing in NC.*

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These lists would be reviewed annually by the commission. Page seconds the motion. Unanimous vote.

- Control of Volunteers: no suggestions are made.
- Sampling of THC Level: **McLawhorn** – raises a need to determine the optimal time for testing and think it could be identified, and at what stage of crop growth samples are taken. **Stewart** – agrees. Recognizes it is one of the bigger variables. The Temporary Rules, section (b) initiates this. There is no national standard for when, in general most states and Canada agree that it is when everything is in full flower. Shares more details he has learned. *Makes a motion to amend section (b) to say: License holders are responsible for notifying the Division in writing or by email within one week of the time of initiation of floral buds. The Division shall acknowledge the notification in writing or by email. Failure of the licensee to provide notification of the floral bud initiation will prevent the licensee from marketing any plants and make them subject to civil and criminal penalties as provided in the general statute. Also, section (c) be amended or changed to say: The Division shall sample all fields or greenhouses within three weeks of receiving notification of initiation of floral buds by the licensee if practicable, or randomly and based on perceived risk at the discretion of the Division. The sampling unit shall be defined as a distinct field, greenhouse, or variety planted within a field or greenhouse, whichever is smaller. Rascoe seconds. Discussion. Unanimous vote.* **Emily** – asserts the definition of THC may need to be included in the rules. The rules or statute do not seem to define it in alignment with the state and federal laws. The total percent of THC is the combined percentage of delta 9 THC and the THC acid in a plant. Discussion occurs. **Melton** – clarifies that this does not in any way change what we are currently testing it only makes it clearer. *Stewart makes a motion to add a definition section be added to the designation of THC in the rules is consistent with the federal and state statutes. Rascoe seconds. Unanimous vote.*
- Reporting of Sampling: **Stewart** – has a recommendation on this one. Section (c) 1 is unique in IH states. There is a benefit to this rule. He is interested in striking the section (c) 2. Based on this years' experience it has lost its relevance and also complicated to uphold. *Stewart makes the motion to change section (c) 1 to: Industrial hemp stalks may be harvested, processed and used for fiber and/or any other lawful purpose excluding propagation. Also to strike (c) 2 from the rules. Page seconds. Unanimous vote.*
- Licenses: no suggestions are made.
- Fees: **Melton** - the likely need to address this topic at another time with counsel present. While the intention is the keep the fees as low as possible it seems clear that the program will increase fees over the next few years as it is a self-supporting program. No additional comments are made.
- Application For Licenses: **Melton** – the most highly addressed rule in the application section has been the Bona Fide Farmer rule. He had Emily prepare some options. These are laid out in the packet for each commissioner. She reviews what each would do.
 - Change nothing.
 - Eliminate this rule. Stresses that other limitations would have to be placed upon entry to the program. Otherwise the program would be unyielding to manage. Suggestions include limited number of growers, limited number of acreage, or space.
 - Extend the tax language from one year to three years.
 - Add language to include a probationary license. Twenty licenses per year allowed to apply without previous farming experience and would undergo more heightened scrutiny.

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- Change the language to improve more ways to prove farming experience. This would require more clarifications to identify how this would be measured, but could be challenging. This would potentially allow more participants.

Melton – opens the discussion for potential other ideas or if anyone wants to identify one of these options. Of course, the rule could remain as it is. **McLawhorn** - respects that he and all the board want to make this as inclusive as possible. Acknowledges that this is a pilot program. He expresses appreciation for the efforts and options given. Keeps coming back to the need to control this. With NC now having 100 growers there is a potential for law enforcement challenges and he hopes to avoid those problems. Now we have some high THC samples, after we had none last time. This is already more complicated. *Makes a motion to change the rule to Option 3 to include growers that can provide farming proof from the past one to a one-to-three-year rule. Page seconds the motion. Discussion?* Rascoe reviews some of the option three details. States how this would help those who maybe had farming but had stopped.

McLawhorn – thinks this keeps the rule but could likely attract a recently retired farmer. Melton reads out loud the suggestion and calls for a vote. *Unanimous vote.*

Melton – raises the concern for the aspect of the farmer rule as it applies to the Research Only applicants. *Stewart makes a motion that in the Application for License rule, under section (a) (9) have the phrase unless the application is for a Research Only license. Rascoe seconds the motion. Discussion, none. Unanimous vote.*

Stewart – there is no deadline in the temporary rules. He would like to see a deadline added to this rule for field grown IH for the increased efficiency of the program. *Makes a motion for the addition of a deadline for an application for the cultivation of field grown industrial hemp for the following year to be received by December 15th of the previous year. McLawhorn seconds.*

Discussion is initiated regarding a greenhouse application deadline. Creating a regular quarterly deadline to increase administrative schedule of the applications and meetings. Would regular meetings assist the public expectations of their application deadline. **McLawhorn** – is it necessary for the date to be that early? **Stewart** – the import process is complicated for this. If this deadline establishes a mid-February approval by the commission, that is a reasonable time frame for the PID to review those applications and do their necessary verifications. **McLawhorn** – we will need to get this deadline out aggressively if this is the case. **Stewart** – the experience has been in as little as two weeks to get seed or up to two months. Asks Phil Wilson. **Wilson** – it is hard to predict what will happen in subsequent years, but would rather have this amount of time. **Stewart** – NC farmers did a whale of a job with late planting this year. Can't wait to see what they can do with better timing. Melton calls for a vote. *Unanimous vote.*

- Reporting Requirements: no suggestions are made.
- License: Stewart asks to revisit this rule section. In review of previous meetings and discussions for the transport of IH. Discussion of reviewing the issue and forwarding the topic to the attorneys to resolve where it would go.

Melton had Emily prepare some options for the transportation of IH. She reviews what each would do. She shares language that could be included regarding this. *(Documented here with changes as approved)*

- Industrial Hemp grown under this chapter may be transported from the land registered in the application to a registered processor by a:
 - "(a) The licensed grower
 - (b) A designee of the licensed grower as documented and signed by the licensee
 - ~~(c) A designated employee of the Plant Industry Division~~
 - (d) A designated employee of the North Carolina Department of Agriculture

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(e) A designated employee or extension agent of a land grant university as defined in statute

While being transported, the transporter must maintain proper documentation, including, but not limited to

(a) a photocopy of the Grower's license

(b) government issued identification

(c) a bill of lading clearly illustrating the control process

- Designated Employees of NC State University, North Carolina A&T University and the North Carolina Department of Agriculture and Consumer Services may possess, transport, analyze, and store samples of industrial hemp for the purposes of providing diagnostic, advisory services and research services and do not require a license from the Commission to do so. A list of designated employees shall be maintained by the commission but provided by the state agencies."

Emily - further adds some discussion about the agents of the universities and the DAG creating their own lists and submitting those to the commission, placing the burden on the universities and the DAG to create and submit the lists. Then the commission would not be accepting names one by one.

- Discussion. Page is referenced for the logistics of the law enforcement of this challenge.

Melton – further mentions processors, extension agents and other people in the field that legitimately may need to carry the products in this program. **McLawhorn** – the lists for the universities and DAG, but what about the growers keeping up lists for their employees. Is that pragmatic? **Febles** – proposes including language to offer the paper of an employer to designate a person as an employee to give permission to carry along with a copy of the license and some documentation to show where it is going and coming from. **Rascoe** – explores the types of documentations for employees and potential complications. Melton calls for a motion by reading the language suggested. *McLawhorn makes the motion to approve the wording now read by Dr. Melton. Page seconds it. Further discussion, none. Unanimous vote.*

- **Prospective ideas and updates Emily Febles** has to share for immediate priority program activities. She briefly laid out several ideas as her priorities:

- Industrial Hemp being used in commercial grade animal feed. There is a push across the country and IH does not have an FDA approval, yet. University and funding strategies and timeline it may take to have effective.
- There is some information we do need to collect as part of the rules to participate in the program. She will be working on a survey to collect that data. This will help us learn what is happening as well as what resources might be needed to assist current and future growers.
- NC has been invited to host the Industrial Hemp Regulatory Conference. Seems a prestigious offer since the NC program is so new. It does seem to support itself so it shouldn't be a burden on the funds of the commission. Some farms and processors would be invited to be toured by many visitors from other states.
- Would look to host a half-day training for law enforcement, perhaps in two or three areas of the state. May help increase law enforcement awareness.
- Efforts to visit some NCSU Extension offices to help educate them as well.

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