



Mendocino County Farm Bureau

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Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

September 10, 2019

Mendocino County Board of Supervisors
501 Low Gap Road, Room 1010
Ukiah, CA 95482

RE: Agenda Item 6B Discussion and Possible Action Including Direction to Staff to Develop an Industrial Hemp Cultivation Registration Process, Limited to Feminized Seeds and Female Plants, and Any Additional Regulation Necessary to Protect Cannabis Cultivation

Dear Chair Brown and Supervisors,

The Mendocino County Farm Bureau (MCFB) is a non-governmental, non-profit, voluntary membership, advocacy group whose purpose is to protect and promote agricultural interests throughout the county and to find solutions to the problems facing agricultural businesses and the rural community. MCFB would like to submit comments on agenda item 6B in relation to the development of an industrial hemp cultivation program for Mendocino County.

State and Federal Background

The California Industrial Hemp Farming Act (Senate Bill 566; 2013 statute) authorized the commercial production of industrial hemp in California. The Act became effective on January 1, 2017, due to a provision in the Adult Use of Marijuana Act (Proposition 64) that passed in November 2016. In September of 2018, SB 1409 was signed by the Governor and went into effect January of 2019 to provide additional updates to California law pertaining to the cultivation of industrial hemp. In the current legislative session, SB 153 and AB 228 are also looking to make amendments to hemp related regulation.

California's industrial hemp law can be found in Division 24 of the California Food and Agricultural Code. The California Department of Food and Agriculture (CDFA) adopted Section 4900 in Title 3 of the California Code of Regulations pertaining to Industrial Hemp Cultivation Registration Fees, and Section 4920 and Section 4921 pertaining to the list of approved seed cultivars. CDFA has also adopted various sections in Title 3 of the California Code of Regulations pertaining to industrial hemp sampling and testing for THC content through emergency rulemaking. These regulations were put into place as of June 10, 2019 and will be in effect for a minimum of 180 days. CDFA will proceed with the regular rulemaking process within the time period the emergency regulation is in effect to permanently adopt those regulations. Further regulations pertaining to cultivation will be developed with consideration of recommendations from the Industrial Hemp Advisory Board, and promulgated through the regular rulemaking process.

On the federal level, the Agriculture Improvement Act of 2018, effective January 1, 2019, removed hemp from Schedule I of the federal Controlled Substances Act. Thus, hemp is no longer federally regulated as a controlled substance. The U.S. Department of Agriculture (USDA) is currently drafting hemp regulations with the goal of having regulations in effect by the fall of 2019 to accommodate the 2020 planting season.

Considerations for a Mendocino County Industrial Hemp Cultivation Program

- **Advisory Committee:** A number of counties approved moratoriums (Mendocino, Sonoma, San Luis Obispo, San Joaquin, Tulare, etc.) and are currently working on developing ordinances or policies. Sonoma County formed an advisory committee structure (Farm Bureaus, cannabis cultivators, community members, etc.) to work with the county agricultural department and other staff to assist with drafting the ordinance that will be coming to their Board of Supervisors for approval in April. MCFB would be in support of this concept for Mendocino County if it could be done in a timely and productive manner.
- **Pollen Management:** Pollen management will need to be included in Mendocino County hemp policy for both the consideration of hemp and cannabis producers. Some counties are considering that only certified feminized seed or certified female clones be allowed for outdoor cultivation with a prohibition on seeding male plants in outdoor cultivation. Any cultivators who wish to produce hemp seed as a seed breeder, male plants related to nursery stock or food seed production are limited to indoor only with additional restrictions.
- **Taint Concerns:** A number of grape growers have contacted MCFB with the interest of cultivating hemp. However, like other phenols, there is an unknown related to how both cannabis or hemp could possibly create flavor taint in wine grapes. This issue needs additional research to determine ideal interaction limits and proximities to prevent phenol taint issues between cannabis or hemp and wine grapes on neighboring properties. MCFB encourages Mendocino County to engage with the UCCE viticulture extension specialists to further discuss this issue.
- **Nuisance Issues:** Since hemp has similar odor concerns as cannabis, there could be nuisance complaints that arise especially if hemp cultivation occurs in proximity to residential areas. Even if hemp is mostly grown in agricultural areas, both the county and state right to farm rules have a three year timeframe in relation to nuisance determinations. MCFB is seeking clarification on how hemp as a crop rotation on an existing farming operation could or could not be considered a nuisance if proper farming standards are being implemented.
- **Set Backs:** To avoid potential complaints or impacts to neighboring properties, the county could consider establishing set back requirements from property lines under separate ownership, etc. In addition there are no pesticides labeled for hemp use (to the best of our knowledge), so pest management and the potential of pests spreading to other adjoining agricultural crops or vice versa needs to be considered.
- **Mitigation, Abatement and Enforcement:** The county needs to determine how to best deal with potential enforcement situations related to fraud or the need to abate hemp crops that do not pass required THC testing limits. One way to address fraud is through the county registration process and have a related enforcement policy against non-registered hemp. In relation to abatement, the county needs to consider the expense to the agricultural department for cost recovery related to abatement actions that may need to be taken.
- **Registration vs. Permit:** MCFB is in support of establishing a county registration process that is in line with the state registration program for industrial hemp versus creating an overly complex permit.
- **Administration:** Since CDFA is establishing the state guidelines for industrial hemp as is the USDA, it is anticipated that the county agricultural departments will be tasked with administering the industrial hemp program at the county level. MCFB feels that the Mendocino County Department of Agriculture can take on this task, however the county needs to provide the department with the support (financial, staffing levels, etc.) to do so.

MCFB appreciates the opportunity to provide comments to the Board of Supervisors in relation to the development of an industrial hemp cultivation program for Mendocino County. We encourage the consideration of the statements listed above and as always, if there are any questions, please feel free to contact the MCFB office.

Sincerely,

A handwritten signature in black ink that reads "George Hollister". The signature is written in a cursive style with a large, prominent initial "G".

George Hollister
President

CC:

Jim Donnelly, Acting Mendocino County Agricultural Commissioner