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MEMORANDUM

DATE: March 29, 2019

TO: Board of Supervisors

FROM: Harinder Grewal, Agricultural Commissioner
Matthew Kiedrowski, Deputy County Counsel

RE: Report on Industrial Hemp Moratorium

On February, 26, 2019, the Mendocino County Board of Supervisors adopted urgency Ordinance No. 4426, approving interim restrictions on the cultivation of industrial hemp, as defined in the ordinance, pending the study and consideration of land use and existing regulations pertaining to such activity. This urgency ordinance was adopted in response to concerns regarding the compatibility of industrial hemp and commercial cannabis, as well as uncertainty regarding how we regulate industrial hemp.

The Board of Supervisors directed the Departments of Agriculture and Planning and Building Services to study and prepare for their consideration changes to the County's General Plan or County code with respect to the regulation of industrial hemp cultivation. This report serves to provide limited background information regarding industrial hemp regulation by the State. We looked at how other counties are taking action, and what staff views as pathways forward for industrial hemp regulation by the County.

The Department of Agriculture recommends that the urgency ordinance be extended by the Board of Supervisors in order for staff to develop and propose comprehensive regulations regarding industrial hemp cultivation, to allow for local regulations to be adopted and implemented before cultivation becomes widespread.

INDUSTRIAL HEMP BACKGROUND

Due to recent federal and state legislation, the agricultural production of Industrial Hemp is now approved. The legalization of Industrial Hemp allows for a new industry that offers many benefits to growers, business and consumers by discouraging illegal hemp cultivation and related dangers that affect workers and the neighboring public from unlawful activities, this program will help protect the public safety of California residents or worker safety. Based upon the economic analysis the California Department of Food and Agriculture (CDFA) believes this program benefits the general welfare of the California residents.

There are some issues of concern. The California Health and Safety Code distinguishes Hemp from Cannabis currently permitted in the county. Yet cannabis is the same genus and species as industrial hemp. Therefore, cross-pollination of the two varieties is possible. This could potentially reduce the yields and quality of our current registered cannabis groves. There are no current studies to determine a safe distance between cannabis and hemp.

The growing of hemp could also lead to devastating economic loss to a grower. Crops that exceed 0.3% of THC cannot be harvested. In Colorado, Industrial Hemp crops were disked and destroyed due to high levels of Tetrahydrocannabinol (THC).

CDFA is required to initiate an Industrial Hemp Pilot Program prior to completely opening it up for required registration. The program must meet federal guidelines prior to initiation. County Agricultural Commissioners will be assigned regulatory responsibility for hemp. Currently there are no contracts or funds assigned for this work. All of these processes are in the stage of development. Currently there is no registration for Industrial hemp growers, or seed production in the state of California.

The County Agricultural Commissioners and Sealers Association (CACASA) has been working on the development of the Industrial Hemp Program. Our Commissioner worked with other counties to develop planning. Counties were surveyed to verify if they have or have not chosen to participate in a moratorium. The Commissioner's office communicated with our local farm bureau for their input. We communicated with CDFA. CACASA has representatives who serve on committees to develop a MOU between CACASA and CDFA for funding. We are in discussions with CDFA on the development of regulations for hemp. Negotiations for the development of inspection and sampling protocols are progressing.

Statewide Industrial Hemp Laws are enacted and found in the California Food and Agricultural Code Sections 81001 to 81011. California Code of Regulations (CCR) Title 3, section 4920 is adopted. An Industrial Hemp Advisory Board is appointed and is meeting to move the process forward.

Industrial Hemp County Moratorium Status			
Moratorium	Yes	No	Remarks
Alameda			
Alpine		x	
Amador			
Butte			
Calaveras	x		
Colusa		x	
Contra Costa			
Del Norte		x	
El Dorado		x	
Fresno			
Glenn			
Humboldt			
Imperial		x	
Inyo		x	requires use permit
Kern			
Kings			
Lake			in process of establishing moratorium
Lassen	x		expires in 45 days
Los Angeles			
Madera		x	
Marin			

Mariposa			
Mendocino	x		
Merced			
Modoc			in process of establishing moratorium
Mono	x		
Monterey			currently defined as and subject to cannabis requirements
Napa			
Nevada			may require use permit in near future
Orange			
Placer			
Plumas		x	
Riverside			
Sacramento	x		
San Benito			
San Bernardino	x		
San Diego		x	
San Francisco		x	
San Joaquin			
San Luis Obispo		x	
San Mateo		x	
Santa Barbara			in process of establishing moratorium
Santa Clara		x	
Santa Cruz			
Shasta	x		expires 3/10/20
Sierra	x		
Siskiyou	x		
Solano			
Sonoma			
Stanislaus		x	
Sutter			
Tehama	x		expires 6/30/19
Trinity			
Tulare	x		expected to be adopted 3/26/19
Tuolumne			in process of establishing moratorium
Ventura		x	
Yolo	x		expires 2020

Yuba	x	effective 3/26/19
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Statewide Program Implementation Overview

The statewide program is in a state of development. The farm bill requires the Industrial Hemp Plan to meet seven criteria:

1. Maintain relevant information regarding land on which hemp is produced
2. THC testing procedure
3. Disposal of non-compliant plants and product
4. Enforcement procedures: negligent violations, other violations, prior felony conviction, false statements
5. Annual inspections, including at least a random sample of hemp producers
6. Submitting information to USDA
7. Certification of sufficient resources and staffing to carry out state plan.

A record keeping process is not yet developed. Forms for registrations and inspection are yet to be created. Required Documentation are not established.

There are no procedures for testing for THC. There is a difference in results for THC depending on the drying process. A standardized drying process for samples will be adopted. Laboratories will be approved. Currently sampling procedures for field sampling required by the agricultural commissioners have not been developed.

When fields are rejected for high THC a procedure will be developed for enforcement. Currently there is not authority for enforcement or protocol for disposing of rejected crops.

Currently there are no enforcement procedures for minor to serious violations of any kind.

Inspection frequency and procedures must be developed.

Who will submit information to USDA and how information will be submitted to USDA will be determined.

Currently there are no contracts or MOU's with CDFA to determine local and state responsibilities. Funding sources for staffing, supplies and transportation need to be developed.

CDFA has proposed 3 CCR 4900. It is currently at the Office of Administrative Law. It proposes a registration fee of \$900 for industrial hemp for commercial purposes and seed breeders. It offers 15% to the counties and 85% to CDFA. There are current discussions that would offer higher percentages and local registration fees to cover actual costs during the pilot project.

The Commissioners association and CDFA are working to develop a Memorandum of Understanding (MOU) to define the responsibilities of work. The estimated date of implementation is currently June 30, 2020.

Industrial Hemp Survey Overview

At the suggestion of Supervisor Dan Gjerde, an industrial Hemp Survey was posted at

<https://www.facebook.com/mendocannaprogram/>

<https://www.mendocinocounty.org/government/agriculture/cannabis-cultivation>

Below are the five questions asked and the results:

Will hemp cultivation affect Cannabis yields?

51 (60%) Yes 34 (40%) No

Is hemp cultivation good for Mendocino County?

59 (68.6%) Yes, 27 (31.4%) No

Would you like further education regarding hemp cultivation in Mendocino County?

73 (75.26%) Yes, 24 (24.74%) No

Should hemp be grown in Mendocino County?

56 (64.27%) Yes, 31 (35.63%) No

Is hemp an important product in your life?

61 (64.89%) Yes, 33 (35.11%) No

ORDINANCE RECOMMENDATIONS/NEXT STEPS

This report was developed pursuant to Ordinance No. 4426 and the requirements of Government Code section 65858. The State of California is still developing a complete working program for the regulation of Industrial Hemp, but there is no registration currently occurring in California. Staff of the Agricultural Commissioner's Office is following the State's development of the Industrial Hemp Program.

Until more information is known about the development of State regulation, staff recommends that the Board of Supervisors extend the urgency ordinance for a period of 10 months and 15 days. During that time period, the Agricultural Commissioner's Office and other County departments will continue to work with other counties and the State to determine what State regulations will include and what additional local regulation will be necessary.