

Vermont CCB Subcommittee for Market Structure, Licensing, Taxes, and Fees

Meeting Minutes – September 13, 2021

Dan Smith called meeting to order at 5:03pm.

Subcommittee members in attendance:

Sivan Cotel, Advisory Committee
Stephanie Smith, Advisory Committee
Chris Walsh, Advisory Committee
Dan Smith, VS Strategies
Jen Flanagan, Vicente/Sederberg
Andrew Livingston, VS Strategies
Tom Nolasco, NACB
Mark Gorman, NACB
Gina Kranwinkel, NACB
Geoffrey Gallegos, NACB

Members of Vermont Cannabis Control Board in attendance

James Pepper, Chair
Kyle Harris
Brynn Hare, Executive Director
Lindsey Wells
Three members of the Vermont citizenry

Minutes recorded by Geoffrey Gallegos. Dan Smith laid out three topics to focus on for this discussion: (1) Estimated total canopy needed for the market; (2) Tiers of cultivation licenses (indoor/outdoor); and (3) Entrepreneurial demand, and identifying who will apply for licensure. He reviewed statutory provisions covering the subcommittee, and proposed the agendas for the next meetings as:

9/16: Other license types (retail, manufacturing, wholesale, other types)
9/20: Local issues (local fees, local process), State fees, CCB projected budget
9/23: Outline of fee recommendations for the 10/1 report
9/27: Review of outline

TOPIC 1: Estimated total canopy for VT market.

Goal is to meet projected demand without creating a surplus. Based on the VS model, the Vermont market will need 350,000 – 400,000 square feet of flowering canopy to meet the projected demand.

Andrew Livingston elaborated on this estimate. Looks at both medical and adult-use demand. Data was not readily available for medical cultivators. He estimated that the current level of flowering canopy is 15,000 square feet. He suggested that the initial phase of the market rollout be done in smaller canopies, the effort being to control production and avoid oversupply (when production exceeds 180% above demand). He covered other factors (seasonal/non-seasonal harvest, flowering canopy accounting for only a portion of total operation, flower shelf life, the fluctuating flow of supply/demand).

Stephanie Smith asked if extraction of CBD to THC was factored into flowering canopy.

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Andrew Livingston said it was not factored in, and felt that Vermont's cannabis market will create enough quality natural THC, and will eliminate an incentive to convert CBD back into THC artificially. The model does consider CBD as an input ingredient to bring concentrates into compliance with potency caps.

Chris Walsh asked how many pounds of dry weight cannabis will result from this flowering canopy estimate.

Andrew Livingston mentioned that the model accounts for 75% water loss from drying, and considers an 80:20 (outdoor:indoor) ratio.

Projection is 320,000 sq. ft. outdoor canopy:64,000 sq. ft. indoor canopy.

Yield estimate is 55,000 lbs. of dry flower, 11,000 lbs. of trim.

Concentrates estimated to use 8% of flower, and 100% of trim.

TOPIC 2: Tiers of cultivation licenses.

Chris Walsh asked about different sizes of canopies for different tiers of growing.

Andrew Livingston answered by considering different yield efficiencies as the canopy changes. The model estimates around 40g per square foot of flowering canopy per indoor harvest, and 30g per square foot of flowering canopy for outdoor harvest.

He looked to Colorado and Massachusetts as examples of tier structures. Question: Is tier based on square feet of cultivation or square feet of flowering canopy? Distinctions between these two states are that MA allows for entry into any tier of production, and CO allows entry only at the bottom tier, and then allows for growth over time. He suggests a hybrid approach based on indoor or outdoor (seasonal harvest).

Example (in square feet of flowering canopy):

Five tiers for outdoor (500sf, 1,000sf, 1,500sf, 3,000sf, 5,000sf)

Can start at one of the three smaller tiers, then would need to graduate to a larger tier,

Need to consider what the highest size Vermont is comfortable with.

Dan Smith polled the Advisory Committee Members for thoughts on the principle of the tier structure. Stephanie Smith and Sivan Cotel agreed with the principle. Chris Walsh raised the issue of how to split 400,000 square feet between a number of small grows and how to regulate it.

TOPIC 3: Entrepreneurial demand.

Andrew Livingston suggests looking to Alaska to compare, because it is residentially focused, friendly to local entrepreneurs, and a population of about 750,000 people.

Estimated 150 growers in Alaska. As an example, Vermont could have 100 growers with an average size of 3,000–4,000 square feet of flowering canopy. A process to identify the goals of small growers would help.

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Dan Smith suggested two phases of application, The first being a provisional license, and the second being the actual application. Stephanie Smith agreed with this idea, and noted that it would give applicants time to prepare, and the opportunity to find out their likelihood of success while preparing.

Jen Flanagan shared from her experience as a Massachusetts regulator, and noted that the provisional license was helpful in MA. The biggest challenge for applicants was securing the financing, and the provisional process could give an applicant some answers before they started incurring higher expenses. She also reminded the Subcommittee of the need for compliance enforcement officers, and raised the difficulty of regulating a large number of small growers.

Sivan Cotel asked if there could be a correlation between small growers and outdoor cultivation. Because the barrier to entry will be lower for an existing farmer who already has land, could it lead to too many outdoor grows?

Dan Smith suggested looking at a low fee license for small cultivators growing outside. Could create drawbacks if majority of small cultivators are outdoor grows. The Subcommittee will need to discuss over the next meetings. Need to also consider what percentage of allocated canopy is outdoor cultivation, because cold weather leads to a short growing season as well as a harvest when demand is lower. Another consideration is that potency limits of concentrates could create a challenge when preserving the harvest. In other words, how would an apple orchard look if it couldn't make cider?

Andrew Livingston brought up what happened in Oregon when the doors were opened to a lot of good cannabis cultivators to supply a moderate state population. Fall of 2017 saw 3-4 years of supply cultivated, and resulted in a lot of the small farmers going out of business. Don't want to see this happen in Vermont. Can learn from mistakes in Oregon.

If harvest is in late September, the foliage tourism tapers off and there is a gap before ski season. Global warming may also delay ski season in the future. Flower will spoil by then. When demand increases in the summer, there could be a shortage. There is a desire to welcome the small outdoor cultivator, because the barrier to entry is lower. Also need to ensure success, and the ability to adapt to seasonal fluctuation. Need to strike the balance. Also need to figure out storage techniques.

Stephanie Smith raised the option of concentrating, and then diluting for release.

PUBLIC COMMENT (summarized)

Dave Silverman, Middlebury

Concerned about the risk of underestimating the demand. The 55,000 pound output is similar to what RAND estimated as the demand in 2015. That was flower market, and not much demand for value-added products in that model. Worry is that if production is capped too low, and prices become artificially high. Vermont will lose the key benefit of Act

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164, which was to include the parallel illicit market. High prices in the regulated market creates room for the parallel market to continue. The way to bring the parallel market into the regulated market is by undercutting the parallel market, and make sure the risk premium is no longer there for them.

Also concerned that production caps on the recreational market will create room for 3-5 medical dispensaries (which are not capped) to fill in. This creates a disequitable market, which would hurt political support.

Also worried about heavy regulation. Vermont has lots of growers who already have seeds in the ground, and nobody is regulating them at all. Whatever we do in this regulated market is more that we do now, and a net positive. Going to be a lot of farms, more than 100. Limiting to 100 small growers does not match who Vermont is. Give all existing growers access to market, and manage it so we don't repeat the Oregon mistake. Don't drive people away from the regulated market.

Dan Smith encouraged more public comments, which are being read, considered, and incorporated into these discussions. He then moved to adjourn. Stephanie Smith seconded.

Meeting adjourned at 6:04pm