

BRIAN SANDOVAL  
Governor

STATE OF NEVADA

JIM BARBEE  
Director



Sparks Office:  
2150 Frazer Avenue  
Sparks NV 89431-5566  
(775) 688-1166  
Fax (775) 688-2533

Elko Office:  
4780 E. Idaho Street  
Elko NV 89801-4672  
(775) 738-8076  
Fax (775) 738-2639

Las Vegas Office:  
2300 E. St Louis Avenue  
Las Vegas NV 89104-4314  
(702) 668-4590  
Fax (702) 668-4567

## DEPARTMENT OF AGRICULTURE

405 South 21<sup>st</sup> Street  
Sparks, Nevada 89431

# MEMORANDUM

TO: Nevada Department of Agriculture Offices  
State Capitol Building  
State Library and Archives  
Dennis Belcourt – AG's Office

FROM: Lynn Hettrick, Division Administrator – 775-353-3729  
[Lhettrick@agri.nv.gov](mailto:Lhettrick@agri.nv.gov) Fax Number 775-353-3661

SUBJECT: Posting of Agenda for Workshop Scheduled for: Wednesday, November 29, 2017 at 10:30AM

DATE: November 3, 2017

---

I have attached a copy of the agenda for the Nevada Department of Agriculture Workshop that will be held on; Wednesday, November 29, 2017 at 10:30AM.

Please post the agenda for NAC 557 before 9:00am on November 10, 2017, per *open meeting law* and return this memo to my attention, signed with the date of posting, as I need this for our files.

We appreciate your assistance in this posting.

Thank you.

Distribution: State Capitol Building  
State Library and Archives  
Dennis Belcourt – AG's Office  
Sparks Office – Nevada Department of Agriculture  
Las Vegas Office – Nevada Department of Agriculture  
Elko Office – Nevada Department of Agriculture  
Consumer Equitability – Department of Agriculture

OFFICE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE & TIME OF POST: \_\_\_\_\_

## MEETING NOTICE AND AGENDA

Public Hearing  
Notice of Workshop

LOCATION: Nevada Department of Agriculture  
405 S. 21<sup>st</sup> Street  
Sparks, NV 89431  
Phone: 775-353-3601

*Video-conference to:* Nevada Department of Agriculture  
2300 E. St Louis Avenue  
Las Vegas, NV 89104  
Phone 702-668-4590

DATE AND TIME: Wednesday, November 29, 2017 at 10:30AM

Public comment will be taken on the intent to adopt a regulation. The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 557, a regulation relating to enact NRS SB396 (2017) and providing other matters properly relating thereto.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify The Dept. of Agriculture in writing at 405 S. 21<sup>st</sup> Street, Sparks, NV 89431 or contact Jerri Conrad at 775-353-3619.

Copies of both the State of Nevada Board of Agriculture Agenda with supporting documentation and Open Meeting Minutes are available, at no charge, for inspection at the Dept. of Agriculture 405 S. 21<sup>st</sup> Street, Sparks, NV, 89431 or Dept. of Agriculture website at <http://agri.nv.gov/>. For additional information contact Jerri Conrad at 775-353-3619.

Notice of this meeting was posted on or before 9:00 a.m. on the third working day before the meeting at the following locations: Nevada Department of Agriculture, 405 S. 21<sup>st</sup> Street, Sparks, NV 89431, Nevada Department of Agriculture, 2150 Frazer Ave., Sparks, NV 89431, Nevada Department of Agriculture, 4780 E. Idaho Street, Elko, NV 89801, Nevada Department of Agriculture, 2300 E. St Louis Avenue, Las Vegas, NV 89104, State of Nevada Capital Building, Carson City NV, State Library and Archives, Carson City

**PROPOSED REGULATION OF THE  
NEVADA DEPARTMENT OF AGRICULTURE**

LCB File No.           

DIVISION OF PLANT INDUSTRY

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION**

The Nevada Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, Nevada, 89431, is proposing the Amendment of regulations pertaining to chapter NAC 557, of Nevada Administrative Code. A workshop has been set for; Wednesday, November 29, 2017 at 10:30AM

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, Nevada, 89431

The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

Of the Nevada Administrative Code to enact NRS SB396 (2017).

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting:

Megan Zich  
Plant Industry Division  
Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431  
775-353-3670  
[Mzich@agri.nv.gov](mailto:Mzich@agri.nv.gov)

A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 E. St Louis Avenue  
Las Vegas, NV 89104

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89445

State Capitol Building  
Nevada State Library and Archives, 100 N. Stewart Street, Carson City, NV  
Dennis Belcourt – AG's Office  
LCB website: [www.leg.state.nv.us](http://www.leg.state.nv.us)  
Nevada Public Notice website: [www.notice.nv.gov](http://www.notice.nv.gov)  
Nevada Department of Agriculture Website: [www.agri.nv.gov](http://www.agri.nv.gov)

NAC 557

SB 396

Sec ( 6) A person must register as a grower or a producer and obtain a producer's certificate pursuant to NRS 576.128

Sec (7) A handler must register with the Department pursuant to NRS chapter 557. The Department will issue a Handler's Certificate upon payment of a non-refundable annual fee of \$50.00.

Sec (8) a Dry weight is defined as plant material containing 15% or less moisture.

Sec (12) 7 Industrial hemp must be inspected and verified to contain a THC concentration of not more than .3% on a dry weight basis. For inspecting a site used for growing or cultivating industrial hemp:

(a) A fee of not more than \$50 per hour for each hour an inspector spends conducting the inspection, including the time spent traveling to and from the site; and

(b) The mileage allowance established by the State Board of Examiners for state officers and employees pursuant to subsection 3 of NRS 281.160 for the inspector's travel to and from the site.

(c) For sampling and analyzing industrial hemp pursuant to this chapter, a fee in the amount of the actual costs of the Department for the sampling and analysis, as approximated by the Department.

Sec (16) 1 Persons registered with the Department shall keep records for not less than 2 years.

Sec (17) 1 A grower or producer must provide the Department the location of the cultivation site, and, if the property is not owned by the grower or producer, a notarized acknowledgement from the property owner that the grower/producer will be cultivating industrial hemp.

Sec (17) 3 A grower, producer or handler who retains hemp seed for future use must keep a record of:

- (a) Harvest date; and
- (b) Variety; and
- (c) Quantity; and
- (d) Disposition

Sec (18) 2(b) A producer of industrial hemp seed is required to label agricultural hemp seed pursuant to NRS 587.015 to 587.123.

Sec (18) 3 A list of eligible agricultural hemp seed producers will be provided by the Department at the request of any interested party.

Sec 19 (1) An independent testing laboratory that receives a sample pursuant to this section shall report its results to the Department.

**Sec 19 (2) Required quality assurance tests.**

1. Each independent testing laboratory must use the general body of required quality assurance tests for usable hemp, hemp-infused products, extracts of hemp and edible hemp products set forth in this section. Such tests may include moisture content, potency analysis, foreign matter inspection, microbial screening, pesticide and other chemical residue and metals screening and residual solvents levels. An independent testing laboratory may request additional sample material in excess of the amounts listed in the table set forth in this section for the purposes of completing required quality assurance tests.

2. The tests required pursuant to subsection 1 and the sample size of products required for the required testing of each type of hemp or hemp product by an independent testing laboratory are as follows:

| Product   | Tests Required   | Sample Size Needed to Complete all Tests |
|---|--|--|
| Usable hemp   | <ol style="list-style-type: none"> <li>1. Moisture content</li> <li>2. Potency analysis</li> <li>3. Terpene analysis</li> <li>4. Foreign matter inspection</li> <li>5. Microbial screening</li> <li>6. Mycotoxin screening</li> <li>7. Heavy metal screening</li> <li>8. Pesticide residue analysis</li> </ol> | 12 grams or less                         |
| Extract of (nonsolvent) like infused dairy butter, or oils or fats derived from natural sources   | <ol style="list-style-type: none"> <li>1. Potency analysis</li> <li>2. Foreign matter inspection</li> <li>3. Microbial screening</li> <li>4. Terpene analysis</li> </ol>   | 7 grams or less                          |
| Extract of hemp (solvent-based) made with a CO <sub>2</sub> extractor   | <ol style="list-style-type: none"> <li>1. Potency analysis</li> <li>2. Terpene analysis</li> <li>3. Microbial screening</li> </ol>   | 2 grams or less                          |
| Extract of hemp (solvent-based) made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the Division of at least 99 percent purity | <ol style="list-style-type: none"> <li>1. Potency analysis</li> <li>2. Terpene analysis</li> <li>3. Residual solvent test</li> <li>4. Microbial screening (only if using hemp that failed the initial test)</li> </ol>   | 2 grams or less                          |

| Product   | Tests Required   | Sample Size Needed to Complete all Tests |
|---|--|--|
| Extract of hemp made with food grade ethanol                              | 1. Potency analysis<br>2. Terpene analysis<br>3. Microbial screening (only if using hemp that failed the initial test) | 2 grams or less                          |
| Extract of hemp made with food grade glycerin or propylene glycol         | 1. Potency analysis<br>2. Terpene analysis<br>3. Microbial screening (only if using hemp that failed the initial test) | 20 grams or less                         |
| Edible hemp-infused product   | 1. Potency analysis<br>2. Terpene analysis<br>3. Microbial screening   | 2 units                                  |
| Liquid hemp-infused product, including, without limitation, soda or tonic | 1. Potency analysis<br>2. Terpene analysis<br>3. Microbial screening   | 2 units                                  |
| Topical hemp-infused product  | Potency analysis   | 2 units                                  |

**Sec 19 (3) Sample testing; disposal of samples; standards; laboratory test results; grounds for disciplinary action.**

1. Immediately before packaging:

(a) Raw hemp for sale to a medical marijuana dispensary, facility for the production of edible hemp products or hemp-infused products or another cultivation facility, a cultivation facility shall segregate all harvested hemp into homogenized batches and select a random sample from each batch for testing by an independent testing laboratory. The independent testing laboratory must collect the samples unless the cultivation facility designates a person responsible for segregating all harvested hemp into homogenized batches pursuant to this subsection in accordance with the standards set forth by the laboratory and the cultivation facility to ensure a random, homogenized sample. If the cultivation facility designates a person to segregate homogenized batches, the cultivation facility must file an attestation with the Department as to the manner in which each random, homogenized sample is selected for testing.

(b) Edible hemp products or hemp-infused products, a facility for the production of edible hemp products or hemp-infused products shall select a random sample from each batch for testing by an independent testing laboratory. The independent testing laboratory must collect the samples unless the facility for the production of edible hemp products or hemp-infused products designates a person responsible for identifying the samples in accordance with the standards set forth by the laboratory and the facility for

the production of edible hemp products or hemp-infused products. If the facility for the production of edible hemp products or hemp-infused products designates a person to collect the samples, the facility shall file an attestation with the Department as to the manner in which each sample is selected for testing.

2. An independent testing laboratory that receives a sample pursuant to this section shall test the sample for cannabinoids, terpenoids, microbial contaminants, mycotoxins, heavy metals and pesticide chemical residue, residual solvents levels and for purposes of conducting an active ingredient analysis, as specified in the policy manual for independent testing laboratories created by the Division Public and Behavioral Health/Tax.

3. From the time that a batch has been homogenized for sample testing and eventual packaging and sale to a medical marijuana dispensary, facility for the production of edible hemp products or hemp-infused products or, if applicable, another cultivation facility until the independent testing laboratory provides the results from its tests and analysis, the facility which provided the sample shall segregate and withhold from use the entire batch, except the samples that have been removed for testing. During this period of segregation, the facility which provided the sample shall maintain the batch in a secure, cool and dry location so as to prevent the hemp from becoming contaminated or losing its efficacy. Under no circumstances shall the facility which provided the sample sell the hemp or edible hemp products or hemp-infused products, as applicable, to a medical marijuana dispensary, facility for the production of edible hemp products or hemp-infused products or, if applicable, another cultivation facility before the time that the independent testing laboratory has completed its testing and analysis and provided those results, in writing, to the facility which provided the sample.

4. An independent testing laboratory shall immediately return or dispose of any sample received pursuant to this section upon the completion of any testing, use or research. If an independent testing laboratory disposes of a sample received pursuant to this section, the laboratory shall document the disposal of the sample using its inventory control system.

5. If a sample provided to an independent testing laboratory pursuant to this section does not pass the microbial, mycotoxin, heavy metal, pesticide chemical residue or residual solvents levels test based on the standards of the Department of Taxation, the facility which provided the sample shall dispose of the entire batch from which the sample was taken and document the disposal of the batch using its inventory control system or market the batch for use in commodities or products not intended for human consumption.

6. For the purposes of the microbial test, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it satisfies the standards set forth in Table 9 of the *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph hereby adopted by reference.



7. For the purposes of the mycotoxin test, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it meets the following standards:

| <u>Test</u>   | <u>Specification</u>   |
|---|------------------------|
| The total of aflatoxin B1,<br>aflatoxin B2, aflatoxin G1 and<br>aflatoxin G2..... | <20 uG/KG of Substance |
| Ochratoxin A.....   | <20 uG/KG of Substance |

8. For the purposes of the heavy metal test, a sample of industrial hemp shall be deemed to have passed if it meets the following standards:

| <u>Metal</u> | <u>Natural Health Products</u><br><u>Acceptable limits uG/KG</u> |
|--------------|--|
| Arsenic..... | <0.14  |
| Cadmium..... | <0.09  |
| Lead.....    | <0.29  |
| Mercury..... | <0.29  |

9. Pesticides for use in the cultivation and production of hemp, edible hemp products and hemp-infused products to be sold or used in this State, shall be:

- a. Appropriately labeled for use on hemp by the EPA; or
- b. Approved for use by the Department.

For the purposes of the pesticide chemical residue test, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it satisfies the most stringent acceptable standard for an approved pesticide chemical residue in any food item as set forth in Subpart C of 40 C.F.R. Part 180.

10. If a sample provided to an independent testing laboratory pursuant to this section passes the microbial, mycotoxin, heavy metal, pesticide chemical residue and residual solvents levels tests, the independent testing laboratory shall release the entire batch for immediate manufacturing, packaging and labeling for sale to a medical marijuana dispensary, a facility for the production of edible hemp products or hemp-infused products or, if applicable, another cultivation facility.

**Sec 19 Sample Sizes required for Testing.**

Industrial hemp, extracts of industrial hemp, a commodity or a product manufactured from industrial hemp and sold by a grower or a handler and intended for human consumption must be tested pursuant to this chapter. The testing must be conducted prior to offering industrial hemp, an extract of industrial hemp or the commodity or product for retail sale using the following sample sizes:

1. For useable hemp sold at retail, the testing must be conducted on a batch of 50 kilos or less.
2. For extracts of hemp sold pursuant to section 24 of this regulation or at retail, the testing must be conducted on batch of 10 kilos or less.
3. For products sold at retail and intended for direct human consumption, including but not limited to, edible or topical products, two units from a single production run.

**Sec 24 (8) Hemp extracts; Extract testing requirements.**

1. A facility for the production of edible marijuana products or marijuana-infused products or a medical marijuana dispensary may acquire an extract of industrial hemp from a grower or a handler registered by the State Department of Agriculture pursuant to sections 6 and 7 of this chapter. A facility for the production of edible marijuana products or marijuana-infused products may use an extract of industrial hemp to manufacture edible marijuana products, marijuana-infused products, edible extract of industrial hemp products and extract of industrial hemp-infused products. A medical marijuana dispensary may dispense edible extract of industrial hemp products and extract of industrial hemp-infused products.
2. Any extract of industrial hemp acquired pursuant to this section must be tested pursuant to sections 19 to 24, inclusive, of this regulation.

**Possible labeling language.**

At time of harvest this product complied with the industrial hemp standard of .3% THC or less established in the 2014 federal farm bill. Industrial hemp is frequently subjected to a chemical extraction process to concentrate the saleable components. This product may contain detectable levels of THC.

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608**

**(NAC Development: SB 396)**

**1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

- The NDA has spoken with the industrial hemp industry and interested parties. They support the clarifications proposed in this regulation. Information was available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov) and posted at the following locations:

Nevada Department of  
Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

Nevada Department of  
Agriculture  
2300 East St. Louis Ave.  
Las Vegas, NV 89104

Nevada Department of  
Agriculture  
4780 East Idaho St.  
Elko, NV 89801

**2. The manner in which the analyses was conducted.**

- No analyses was conducted because the changes are permissive and allow growers to source new opportunities to sell industrial hemp derived material, cultivate seed as well as begin processing industrial hemp.

**3. The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:**

- The economic effect is positive for those who choose to grow industrial under the confines of this program.

**(a) Adverse and beneficial effects; and**

- There are no adverse effects. Hemp growers will benefit by enhancing profitability, seeking processing opportunities, and creating seed varieties that perform better in Nevada.

**(b) Direct and indirect effects.**

- The direct effect is that hemp growers will benefit by enhancing profitability, creation of processing facilities and creating seed varieties that perform better in Nevada. There are no negative indirect effects.

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

- Does not apply, the regulation is permissive and supported by industry.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

- There is no significant cost to the agency.

**6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

- The fees are minimal and will offset costs to the Department.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

➤ The proposed regulation is not more stringent or duplicative of other regulations.

**8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

➤ This regulation is permissive and is supported by industry.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.



James R. Barbee  
Director  
Nevada Department of Agriculture