

# PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

LCB File No. -----

DIVISION OF PLANT INDUSTRY

## NOTICE OF INTENT TO ACT UPON A REGULATION And NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

The Nevada Department of Agriculture will hold a public hearing on March 1, 2017, at 8:00 am, at Agriculture Headquarters, 405 South 21<sup>st</sup> Street, Sparks, NV 89431; Phone: (775) 353-3601. The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapter NAC 557, of the Nevada Administrative Code. The proposal has been designated as File No. R155-16, by the Nevada Legislative Counsel Bureau.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 557; a regulation relating to Hemp Fee Clarification and providing other matters properly relating thereto.

**1. The need for and the purpose of the proposed regulation or amendment**

The need and purpose of the proposed regulation is to compensate the division for revisions that require additional record keeping to comply with federal regulations regarding authorized hemp research trials.

**2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.**

Federally authorized hemp research trials have been frequently modified after approval which has had a significant cost impact on the division to comply with the record keeping required.

**3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**

**Public:**

- a) Both adverse and beneficial effects: There is no public impact as these are extremely limited research trials.
- b) Both immediate and long-term effects: There is no public impact as these are extremely limited research trials.

**Business:**

- c) Both adverse and beneficial effects: There is no adverse effect because businesses choose to modify their approved research trial. There can be a beneficial effect because the modified trial may reduce the businesses cost.
- d) Both immediate and long-term effects: Negligible, the business chooses to modify for their own benefit.

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

None

**5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

N/A

**6. If the regulation is required pursuant to federal law, a citation and description of the federal law.**

N/A

**7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

N/A

**8. Whether the proposed regulation establishes a new fee or increases an existing fee.**

This regulation establishes a new fee or refund which comes into effect at the choice of the business participating in a research trial.

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Staff of the division have determined that this regulation has an impact on business only if the business chooses to modify the approved research trial.

The LCB approved revision can be found on the Nevada Department of Agriculture website at [www.agri.nv.gov](http://www.agri.nv.gov).

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the address below.

**Nevada Department of Agriculture**  
**405 S. 21<sup>st</sup> Street**  
**Sparks, NV 89431**  
**ATTN: Ruth Tietjen**  
**(775) 353-3670**  
**[rtietjen@agri.nv.gov](mailto:rtietjen@agri.nv.gov)**

Written submissions must be received by the Nevada Department of Agriculture on or before February 22, 2017. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Agriculture may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at:

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

And in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

NRS 233B.064(2) provides: Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

**The Nevada State Library in Carson City, and all Nevada county libraries. The Department of Agriculture offices in Sparks, Las Vegas or Elko during the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday.**

Clark County Library, 833 Las Vegas Boulevard North, Las Vegas, NV 89101  
Douglas County Library, 1625 Library Lane, Minden, NV 89423  
Elko County Library, 720 Court Street, Elko, NV 89801  
Esmeralda County Library, Corner of Crook & 4<sup>th</sup> Streets, Goldfield, NV 89013  
Eureka Branch Library, 10190 Monroe Street, P.O. Box 293, Eureka, NV 89316

Humboldt County Library, 85 East 5<sup>th</sup> Street, Winnemucca, NV 89445  
Lander County Library, 625 South Broad Street, Battle Mountain, NV 89820  
Lincoln County Library, 63 Main Street, Pioche, NV 89043  
Lyon County Library, 20 Nevin Way, Yerington, NV 89447  
Mineral County Public Library, 110 1<sup>st</sup> Street, Hawthorne, NV 89415  
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419  
Storey County Public Library, 95 South R Street, Virginia City, NV 89440  
Tonopah Public Library, 167 Central Street, Tonopah, NV 89049  
Washoe County Library, 301 South Center Street, Reno, NV 89501  
White Pine County Library, 950 Campton Street, Ely, NV 89301  
Nevada State Legislature Website: [www.leg.state.nv.us](http://www.leg.state.nv.us)

BRIAN SANDOVAL  
Governor

STATE OF NEVADA

JAMES R. BARBEE  
Director

Las Vegas Office:  
2300 E. St Louis Avenue  
Las Vegas NV 89104-4314  
(702) 668-4590  
Fax (702) 668-456



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

## MEMORANDUM

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

FROM: Robert Little Division Administrator – 775-353-3729  
[rlittle@agri.nv.gov](mailto:rlittle@agri.nv.gov) Fax Number 775-353-3661

SUBJECT: Posting of Agenda for Hearing on Notice of Intent to Act Upon a Regulation Scheduled for March 1, 2017, at 8:00 am.

DATE: January 30, 2017

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I have attached a copy of the agenda for the Nevada Department of Agriculture Hearing for Notice of Intent to Act Upon a Regulation that will be held on March 1, 2017.

Please post the agenda for R155-16, before 9:00am on January 31, 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 Intent to Act Upon a Regulation

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

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89801  
Phone: 775-738-8076

DATE AND TIME: March 1, 2017

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 Hemp Fee clarification; 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 [www.agri.nv.gov](http://www.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.

BRIAN SANDOVAL  
Governor

STATE OF NEVADA

JAMES R. BARBEE  
Director

Las Vegas Office:  
2300 E. St. Louis Ave.  
Las Vegas NV 89104-4211  
(702) 668-4590  
Fax (702) 668-4567



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

## DEPARTMENT OF AGRICULTURE

405 South 21<sup>st</sup> Street  
Sparks, Nevada 89431-5557  
Telephone (775) 353-3601 Fax (775) 353-3661  
Website: <http://www.agri.nv.gov>

### Hearing for Proposed Regulation Amendments to Nevada Administrative Code Chapter 557 – Industrial Hemp

**Date:** March 1, 2017

**Time:** 8:00 am

**Location:** Video conference between the Nevada Department of Agriculture's Sparks, Las Vegas and Elko offices (addresses listed above)

This hearing has been properly noticed as required by the Nevada Open Meeting Law. The workshop is being recorded and all attendees are required to sign in and those who wish to speak are asked to identify themselves for the record. All participants are encouraged to engage in discussion; therefor there is no formal public comment period.

#### Agenda:

- I. Welcome & Introductions
- II. Overview of Specific Amendments
- III. Open Discussion Pertaining to Proposed Amendment(s)
- IV. Adjourn

## **NAC 557: Industrial Hemp Research And Development Program Proposed Amendments**

Black Text = Current Regulation  
*Blue Text = Proposed New Language*

~~Red Text = Proposed Removed Language~~

**Revised 12/20/2016**

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### **Statutory Authority - SB 305**

Sec. 8. The Department shall assess the following fees:

1. For the submission of an application pursuant to section 5 of this regulation, a nonrefundable application fee of \$500.
2. *To amend an application previously submitted pursuant to section 5 of this regulation, a nonrefundable amendment fee of \$500. The other fees due pursuant to this section will be adjusted to reflect any changes in the certified and registered site.*
3. For a certified and registered site used for growing and cultivating industrial hemp outdoors, a fee of \$5 per acre or portion thereof.
4. For a certified and registered site used for growing or cultivating industrial hemp indoors, a fee of 33 cents per 1,000 square feet, or portion thereof.
5. 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.
6. 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.

### ***NAC 557. Pesticides Not Legally Prohibited from Use on Industrial Hemp***

1. *The Department of Agriculture will evaluate pesticide active ingredients for possible inclusion on a list of pesticide ingredients that are not legally prohibited from use on industrial hemp. Products using the active ingredients included on the list must be registered for use in Nevada and must be EPA labeled appropriately for outdoor/indoor use.*
2. *The Department will evaluate products recommended by;*
  - a. *The Department staff; or,*
  - b. *The Independent Laboratory Advisory Committee; or,*
  - c. *A pesticide manufacturer; or,*
  - d. *An industrial hemp establishment or a representative thereof.*

3. *The Department will determine if a pesticide can be included on a not legally prohibited use list based on;*
  - a. *The provisions in NRS 586.010 to 586.420; and,*
  - b. *The Environmental Protection Agency approved label on the product.*
4. *Pursuant to the provisions of NRS 561.153, the Department will charge the following fees;*
  - a. *For evaluating a product requested to be added to the list, \$75.00 per hour*
  - b. *For verifying that a product is correctly labeled for use in a facility licensed pursuant to NRS 453A, \$75.00 per hour*
  - c. *To participate in a SLN 24C application, \$300.00*



SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608

(Revised LCB File# here if Appropriate)  
NAC 587

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.
  - Some participants in the existing Hemp Research trials have requested a hemp seed certification program. There are no existing small businesses that will be impacted by these regulations. Information is available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov) and posted at the following locations:

Department of Agriculture  
405 S. 21<sup>st</sup> Street  
Sparks, NV 89431

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


Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89801

2. The manner in which the analyses was conducted.
  - No analyses was conducted because these regulations do not apply to any existing small businesses and changes are by request.
3. The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:
  - These regulations should have a positive economic impact. It is hoped that the potential to produce
  - certified seed will enhance the profitability of growing and processing Hemp in Nevada.
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.
  - The agency did not consider a way to reduce the impact because the impact is positive and
  - is proposed by request.

5. The estimated cost to the agency for enforcement of the proposed regulation.
  - The estimated cost is minimal and will depend on the number and size of the applications.
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 proposed new fees are estimated to generate \$4500.00 the money will be used to offset personnel costs, mileage and laboratory costs.
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.
  - This regulation is not more stringent and is not duplicative of other regulations.
8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The agency has concluded that these regulations will permit the certification of Hemp seed in Nevada. Producers of certified Hemp seed will benefit economically from the production of certified seed.

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.

 Deputy Director

James R. Barbee

Director

Nevada Department of Agriculture