

**PROPOSED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

LCB File No. R085-15

January 16, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-11, Section 14 of Senate Bill No. 305, chapter 349, Statutes of Nevada 2015, at page 1974, and NRS 561.153.

A REGULATION relating to industrial hemp; establishing provisions relating to the certification and registration of sites used for growing or cultivating industrial hemp; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Department of Agriculture and institutions of higher education to grow or cultivate industrial hemp for certain research purposes and requires each site used for growing or cultivating industrial hemp to be certified by and registered with the Department. (Section 13.5 of Senate Bill No. 305, chapter 349, Statutes of Nevada 2015, at page 1974) Existing law also authorizes the State Board of Agriculture to adopt regulations relating to the certification and registration of such sites. (Section 14 of Senate Bill No. 305, chapter 349, Statutes of Nevada 2015, at page 1974)

Section 5 of this regulation establishes the requirements for the certification and registration of a site intended to be used for growing or cultivating industrial hemp. **Section 6** of this regulation requires an applicant or registrant to provide reports required by the Department on or before the date specified by the Department and authorizes the Department to inspect, sample and analyze any site on which industrial hemp is grown. **Section 6** also requires a registrant to notify the Department before any harvest or other disposition of a growing crop of industrial hemp and requires the Department to analyze the THC content of a sample of the crop. In addition, **Section 6** allows for the disclosure of information obtained by the Department to law enforcement agencies. **Section 7** of this regulation requires a registrant to use certified seed when growing or cultivating industrial hemp and authorizes a registrant to request the Department to obtain certified seed for the registrant. **Section 8** of this regulation establishes certain fees relating to the growing and cultivation of industrial hemp. **Section 9** of this regulation authorizes the Department to order the destruction of the plants grown or cultivated at a site and revoke the

certification and registration of the registrant if testing of a sample from the site reveals that the plants grown or cultivated there contain a concentration of THC that is more than 0.3 percent on a dry weight basis. **Section 10** of this regulation establishes civil penalties for violations of this regulation or chapter 557 of NRS.

Section 1. Chapter 557 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a person who submits an application to the Department for certification and registration of a site used for growing or cultivating industrial hemp in conjunction with an agricultural pilot program or other agricultural or academic research.*

Sec. 4. *“Registrant” means a person whose application for certification and registration of a site used for growing or cultivating industrial hemp has been approved by the Department.*

Sec. 5. *A person who represents the Department or an institution of higher education, directly or pursuant to a contract to conduct an agricultural pilot program or other agricultural or academic research on behalf of the Department or such an institution, may submit an application to the Department for certification and registration of a site to be used for growing or cultivating industrial hemp in conjunction with the program or research. The application must be accompanied by a current background check performed by a law enforcement agency that includes a check performed by the Federal Bureau of Investigation. The application must be on a form prescribed by the Department and include all information*

deemed appropriate by the Department. The Department shall certify and register such a site if:

1. The Department determines that the application adequately describes the purpose of the agricultural pilot program or other agricultural or academic research which requires the growth or cultivation of industrial hemp;

2. The applicant has not been convicted of any felony related to the possession, production, sale or distribution of a controlled substance in any form within the 10 years immediately preceding the date of the application;

3. The application includes all other information that the Department determines is appropriate; and

4. The application is accompanied by all fees determined by the Department to be required at the time the application is submitted.

Sec. 6. 1. A registrant shall submit all reports required by the Department on or before the date specified by the Department in the certification.

2. The Department may inspect, sample and analyze, in such manner and at such times as the Department deems necessary, all plants, whether growing or harvested, and all land, buildings and other structures used for growing, cultivating or storing industrial hemp and all documents and other records relating to the agricultural pilot program or other agricultural or academic research certified by and registered with the Department. The registrant shall ensure such unrestricted access.

3. A registrant shall notify the Department before any harvest or any other form of disposition of a growing crop of industrial hemp.

4. The Department shall conduct an analysis of the THC concentration of a sample of the growing crop described in subsection 3 in a timely manner using appropriate sampling and analysis protocols.

5. Any information obtained by the Department in carrying out the provisions of chapter 557 of NRS and this chapter may be provided to any law enforcement agency without notice to the applicant or registrant.

Sec. 7. 1. A registrant shall ensure that only certified seed is used when growing or cultivating industrial hemp for the certified and registered agricultural pilot program or other agricultural or academic research.

2. A registrant may request that the Department obtain certified seed for the registrant's use.

3. If the Department obtains certified seed for a registrant, the registrant shall:

(a) Release the Department from any liability for the quality or fitness of the certified seed for any use or purpose;

(b) Pay to the Department in advance:

(1) All of the costs incurred by the Department in obtaining the certified seed; and

(2) A fee of \$1 per pound of seed obtained for the registrant; and

(c) Relinquish any portion of the certified seed which is not used for the certified and registered agricultural pilot program or other agricultural or academic research to the Department. Any certified seed relinquished to the Department pursuant to this paragraph becomes the property of the Department.

4. As used in the section, "certified seed" has the meaning ascribed to it in NRS 587.021.

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

- 1. For the submission of an application pursuant to section 5 of this regulation, a non-refundable application fee of \$500.*
- 2. For a certified and registered site used for growing and cultivating industrial hemp outdoors, a fee of \$5 per acre or portion thereof.*
- 3. 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.*
- 4. 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.*
- 5. 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. 9. *If, after testing a sample of industrial hemp, whether growing or not, the Department determines that the sample contains a THC concentration of more than 0.3 percent on a dry weight basis, the Department may:*

- 1. Revoke the certification and registration of the registrant; and*
- 2. Order the destruction of the plants grown or cultivated by the registrant at the registrant's expense.*

Sec. 10. 1. *Violations of the provisions of this chapter or chapter 557 of NRS are subject to the following civil penalties:*

(a) For a first violation, the Department shall impose a civil penalty of \$250.

(b) For a second violation, the Department shall impose a civil penalty of \$500.

(c) For a third or subsequent violation, the Department shall impose a civil penalty of \$1,000 per violation.

2. *Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:*

(a) Fifty percent of the money must be used to fund a program selected by the Director of the Department that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and

(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds established by NRS 555.035.