

**PROPOSED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R066-17

October 17, 2017

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

AUTHORITY: §§1-16, NRS 587.077, 587.083 and section 18 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1347.

A REGULATION relating to agricultural hemp seed; setting forth the requirements for certification by the State Department of Agriculture of a crop of agricultural hemp seed; requiring the Department to charge and collect certain fees; providing for a refund of those fees under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law designates the State Department of Agriculture as the official seed-certifying agency for the State of Nevada and requires the Director of the Department to adopt and enforce standards governing the certification of seed as to variety, purity, quality or other matters relating certification. (NRS 587.077) Existing law also requires: (1) the Director to adopt regulations governing the terms and methods used in sampling, inspecting, analyzing, testing and examining of certain seeds and the tolerances to be used for the seeds; and (2) the Department to adopt regulations establishing quality standards and requirements for the packaging and labeling of agricultural hemp seed. (NRS 587.083, section 18 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1347) Existing regulations set forth the requirements for the certification of various kinds of agricultural seeds, including, alfalfa, barley, oat, rye, triticale and wheat seed. (NAC 587.258-587.288) Similarly, **sections 2-16** of this regulation set forth the requirements for the certification of agricultural hemp seed. **Section 8** provides that the general standards for the certification of all seeds also apply to the certification of agricultural hemp seeds. **Sections 9 and 10** set forth specific requirements for planting agricultural hemp seed crops, including certain required isolation areas and minimum isolation distances that must be maintained between fields industrial hemp. **Section 11** sets forth the requirements for the inspection of an agricultural hemp seed crop by the Department. **Sections 12 and 13** set forth the tolerances that an agricultural hemp seed crop must meet and the minimum requirements for impurities in an agricultural hemp seed crop to be eligible for certification. **Sections 14 and 15** set forth the requirements for certification of a lot of agricultural hemp seed and the submission of an application for certification. **Section 16** sets forth the fees that the Department must charge and collect for certification of an agricultural hemp seed crop and the circumstances under which an applicant may receive a refund of those fees.

Section 1. Chapter 587 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 16, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Agricultural hemp seed” has the meaning ascribed to it in section 3 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1343.*

Sec. 4. *“Crop” has the meaning ascribed to it in section 4 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1343.*

Sec. 5. *“Industrial hemp” has the meaning ascribed to it in NRS 557.040.*

Sec. 6. *“Producer” has the meaning ascribed to it in section 9 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1344.*

Sec. 7. *“THC” has the meaning ascribed to it in NRS 453A.155.*

Sec. 8. *The general standards for certification of agricultural hemp seed as adopted by the Department and sections 2 to 16, inclusive, of this regulation govern the certification of agricultural hemp seed.*

Sec. 9. 1. *Except as otherwise provided in subsection 4, an agricultural hemp seed crop that is grown for certification pursuant to sections 2 to 16, inclusive, of this regulation must not be planted on land on which the previous agricultural hemp seed crop grown was of the same kind, unless the previous agricultural hemp seed crop grown was of the same variety and met all of the requirements for the same or a higher class of agricultural hemp seed.*

2. *Each application for certification of an agricultural hemp seed crop must indicate the types of agricultural hemp seed crops, if any, grown on the land during the previous 3 years.*

3. At least 2 years must elapse between the destruction of any variety of agricultural hemp seed crop of dissimilar adaptation on the land and the establishment of a new stand for the production of agricultural hemp seed for certification on the land.

4. An agricultural hemp seed crop that is grown for designation as breeder seed may be accepted upon approval by the Department. A breeder class of agricultural hemp seed crop must not be planted on land on which the previous 10 crops were industrial hemp of any kind.

Sec. 10. *1. Each isolation area required pursuant to subsection 4 must be kept free of industrial hemp plants and must be in place before the time of flowering and inspection of the agricultural hemp seed crop. Not more than three plants for each 11 square feet of harmful contaminating plants are authorized within the required isolation distance adjacent to the inspected crop pursuant to subsection 3. The condition of each crop must be assessed by the certifying agency, which may alter this standard by reducing the number of harmful contaminating plants permitted per square yard based upon the risk of contamination of such plants.*

2. If a dioecious male industrial hemp plant begins to flower before the plant is removed from the field in which it is grown, each industrial hemp plant must be destroyed for a radius of 10 feet for foundation seed and 6 feet for registered seed.

3. The minimum distance a field of industrial hemp must be from a different variety of industrial hemp or a field of the same variety of industrial hemp that does not meet the requirements for the same class designation is:

<i>Inspected Crop</i>	<i>Other Crop</i>	<i>Isolation Distance Required (Feet)</i>
<i>Dioecious Type – Registered and Foundation</i>	<i>(1) Different varieties of industrial hemp</i> <i>(2) Noncertified crop of same kind</i> <i>(3) Lower certified class seed crop of same variety</i> <i>(4) Same class of certified seed of same variety</i>	<i>16,150</i> <i>16,150</i> <i>6,640</i> <i>3</i>
<i>Dioecious Type – Certified</i>	<i>(1) Different varieties of industrial hemp</i> <i>(2) Noncertified crop of same kind</i> <i>(3) Lower certified class seed crop of same variety</i> <i>(4) Same class of certified seed of same variety</i>	<i>3,320</i> <i>3,320</i> <i>646</i> <i>3</i>
<i>Monoecious Type and Hybrids – Registered and Foundation</i>	<i>(1) Dioecious variety of industrial hemp</i> <i>(2) Noncertified crop of same kind</i> <i>(3) Different varieties of the same type of industrial hemp (monoecious or female hybrid)</i> <i>(4) Lower certified class seed crop of same variety</i> <i>(5) Same class of certified seed of same variety</i>	<i>16,150</i> <i>16,150</i> <i>6,460</i> <i>3,230</i> <i>3</i>
<i>Monoecious Type and Hybrids - Certified</i>	<i>(1) Dioecious variety of industrial hemp</i> <i>(2) Noncertified crop of same kind</i> <i>(3) Different varieties of the same type of industrial hemp (monoecious or female hybrid)</i> <i>(4) Lower certified class seed crop of same variety</i> <i>(5) Same class of certified seed of same variety</i>	<i>3,230</i> <i>3,230</i> <i>646</i> <i>646</i> <i>3</i>

4. Except as otherwise provided in this subsection, each agricultural hemp seed crop that is entered for certification must be grown at least 5 miles from any area in which any marijuana is cultivated. Upon request by a person, the Department may grant a variance relating to isolation areas concerning indoor versus outdoor cultivation of cannabis.

Sec. 11. 1. The Department will inspect an agricultural hemp seed crop after female flowers are produced.

2. Each producer must notify the Department of the appropriate date, as determined by the producer, for inspection of each crop pursuant to subsection 1. The notice must be provided at least 2 weeks in advance of that date.

3. A field of agricultural hemp seed crops entered for certification must show evidence of control of:

(a) Any contaminating crops of plants or varieties of those plants; and

(b) Any objectionable or noxious weeds specified by the Department.

4. Any variety of industrial hemp of the monoecious gender must show evidence of control of:

(a) Any contaminating gender that exceeds the amount of the varietal designation; and

(b) A deviation from the varietal characteristic relating to monoecious or dioecious genders of 10 percent or less.

5. The Department will collect one sample of an agricultural hemp seed crop per year when the flower is at maximum maturity to analyze the crop to determine the total amount of THC in the crop. The Department will use the following method to take each sample:

(a) Of each plant sampled, the top 6 inches of the female flower will be harvested;

(b) A total of 10 plants per field and per variety will be sampled in a manner that is proportionate with the designated field;

(c) Each sample will be contained in a single sealable plastic bag;

(d) Latex or nitrile gloves will be worn when sampling and sterilized or exchanged upon entering different fields; and

(e) Each sample of an agricultural hemp seed crop will be labeled according to date, producer, species, variety and sample number of the crop.

Sec. 12. 1. *Except as otherwise provided in this section, an agricultural hemp seed crop must meet the following tolerances to be eligible for certification:*

	<i>Maximum Permitted in Each Class</i>			
<i>Factor</i>	<i>Breeder</i>	<i>Foundation</i>	<i>Registered</i>	<i>Certified</i>
<i>Other Varieties</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>1:5,000</i>
<i>Other Crops</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>1:2,000</i>

2. If any concentration of THC exceeds 0.3 percent on a dry weight basis, the Department will disqualify the crop for certification and will destroy the crop.

3. Any plant of the genus Cannabis sativa L., other than a variety of industrial hemp, is prohibited within the field in which the agricultural hemp seed crop is grown. If such a plant is detected during inspection, the Department will order the destruction of the crop.

Sec. 13. 1. *Any impurity in an agricultural hemp seed crop which exceeds the limits set forth in subsection 3 must be removed before the Department inspects the crop.*

2. *The Department may refuse to certify an agricultural hemp seed crop based upon any combination of impurities found in the crop.*

3. *An agricultural hemp seed crop grown for certification must not, unless otherwise specified by the breeder of the crop, exceed the limits of any impurities set forth in the following table:*

<i>Inspected Crop</i>	<i>Maximum Impurity Standards per 10,000 Plants in Registered and Certified Agricultural Hemp Seed Crops</i>		
	<i>Maximum Number of Monoecious Plants</i>	<i>Maximum Number of Dioecious Male Plants Shedding Pollen</i>	<i>Maximum Number of Other Impurities</i>
<i>Dioecious Type – Foundation</i>	<i>None</i>	<i>None</i>	<i>3</i>
<i>Dioecious Type – Registered & Certified</i>	<i>None</i>	<i>None</i>	<i>10</i>
<i>Monoecious Type – Foundation</i>	<i>500</i>	<i>1</i>	<i>3</i>
<i>Monoecious Type – Registered</i>	<i>1,000</i>	<i>2</i>	<i>10</i>
<i>Monoecious Type – Certified</i>	<i>None</i>	<i>100</i>	<i>10</i>

4. To determine the amount of any impurities in an agricultural hemp seed crop pursuant to subsection 3, the Department will make at least six counts of the crop which will consist of 10,000 plants for each count or the equivalent thereof as determined by the Department. After counting the crop pursuant to this subsection, the Department will average the counts to determine the total amount of impurities in the agricultural hemp seed crop.

5. As used in this section, “impurity” includes, without limitation:

(a) Any species of plant which may cross-pollinate with an agricultural hemp seed crop;

(b) Any variety of industrial hemp other than an agricultural hemp seed crop which is subject to inspection;

(c) Any distinct type of industrial hemp that is foreign to an agricultural hemp seed crop which is subject to inspection; and

*(d) Any weed or other crop which produces seeds that are difficult to separate from an agricultural hemp seed crop which is subject to inspection, including, without limitation, hemp nettle (*Galeopsis tatrahit*).*

Sec. 14. Each lot of agricultural hemp seed entered for certification must be sampled and meet the minimum standards for the class of agricultural hemp seed produced. The Department will draw samples in accordance with NAC 587.180 and 587.190 which must meet the following standards:

	<i>Standards for Each Class</i>			
<i>Factor</i>	<i>Breeder</i>	<i>Foundation</i>	<i>Registered</i>	<i>Certified</i>
<i>Pure seed (minimum)</i>	<i>99.0%</i>	<i>98.0%</i>	<i>98.0%</i>	<i>98.0%</i>
<i>Other crop (maximum)</i>	<i>0.01%</i>	<i>0.01%</i>	<i>0.03%</i>	<i>0.08%</i>
<i>Weed seed (maximum)</i>	<i>0.1%</i>	<i>0.1%</i>	<i>0.2%</i>	<i>0.25%</i>
<i>Noxious weed seed (maximum)</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
<i>Objectionable weed seed (maximum)</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
<i>Inert matter (maximum)</i>	<i>1.0%</i>	<i>2.0%</i>	<i>2.0%</i>	<i>2.0%</i>
<i>Other varieties (maximum)</i>	<i>0.005%</i>	<i>0.005%</i>	<i>0.01%</i>	<i>0.07%</i>
<i>Other kinds (maximum)</i>	<i>0.01%</i>	<i>0.01%</i>	<i>0.03%</i>	<i>0.07%</i>
<i>Germination and hard seed (minimum)</i>	<i>90.0%</i>	<i>80.0%</i>	<i>80.0%</i>	<i>80.0%</i>

Sec. 15. 1. An applicant must submit to the Department an application for certification for each planting of an agricultural hemp seed crop.

2. Each application submitted pursuant to subsection 1 must:

(a) Be submitted on a form furnished by the Department;

(b) List all sources of the agricultural hemp seed stock planted;

(c) Include documentation that verifies the eligibility for certification of the agricultural hemp seed stock planted;

(d) Include a map setting forth the location of the land and the planting of the agricultural hemp seed crop;

(e) Be received by the Department on or before June 1 of the year the agricultural hemp seed stock is planted;

(f) Include any other information required by the Department; and

(g) In addition to any fee imposed pursuant to subsection 3, be accompanied by any fees for certification set forth in section 16 of this regulation.

3. If the Department receives an application for certification of an agricultural hemp seed crop after June 1 of the year the agricultural hemp seed stock is planted, the Department will add a fee of \$100 to submit the application.

Sec. 16. 1. *In addition to any other fee charged and collected pursuant to this chapter, for each planting of an agricultural hemp seed crop, the Department will charge and collect a certification fee of \$15 per acre in addition to a minimum fee of \$50 for each application for certification.*

2. Checks must be payable to the Nevada State Department of Agriculture.

3. Each applicant must pay the fee for certifying an agricultural hemp seed crop:

(a) On or before June 1 of the year in which the agricultural hemp seed stock is planted;

or

(b) If the agricultural hemp seed stock is planted after June 1 of that year, not later than 5 days after the date on which the agricultural hemp seed stock is planted.

4. The Department will refund any fee paid by an applicant for certifying an agricultural hemp seed crop for any planting that is withdrawn from certification if the applicant submits a written request for a refund of the fee before the Department conducts the first inspection of the field in which the agricultural hemp seed crop is planted.