

**PROPOSED REGULATION OF THE
DEPARTMENT OF AGRICULTURE**

LCB FILE NO. R003-18I

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by the agency submitted on 01/08/2018**

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) 1. A handler must register with the Department pursuant to NRS chapter 557.

(a) The Department will issue a Handler's Registration Certificate upon payment of a non-refundable annual fee of \$250.00.

2. Only a handler registered with the Department may process industrial hemp. Process means the processing, compounding or conversion of industrial hemp into hemp commodities or products or agricultural hemp seed.

3. A registered handler may transfer industrial hemp commodities or products to another registered handler or sell industrial hemp commodities or products to a retailer.

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

Sec (8) a Industrial hemp must be inspected and tested by the Department 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 (8) 2 "Commodities or Products" means items processed by a registered handler which contain industrial hemp or which contain any chemical compounds derived from industrial hemp including CBD derived from industrial hemp.

Sec (16) 1 Persons registered with the Department shall;

(a) Establish or maintain Chain of Custody documentation, and

(b) 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 Commodities or products submitted for testing must be derived from industrial hemp which complied with the 2014 Farm Bill standard of .3% THC or less at time of harvest and must be accompanied by chain of custody documentation. Extracted commodities or products that are accompanied by verifiable chain of custody documentation may exceed .3% THC and comply with the Department's quality and content standards. Extracts that exceed .3% THC must be marketed through a licensed marijuana dispensary.

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	1. Moisture content 2. Potency analysis 3. Terpene analysis 4. Foreign matter inspection	12 grams or less

Product	Tests Required	Sample Size Needed to Complete all Tests
	5. Microbial screening 6. Mycotoxin screening 7. Heavy metal screening 8. Pesticide residue analysis	
Extract of (nonsolvent) like infused dairy butter, or oils or fats derived from natural sources	1. Potency analysis 2. Foreign matter inspection 3. Microbial screening 4. Terpene analysis	7 grams or less
Extract of hemp (solvent-based) made with a CO ₂ extractor	1. Potency analysis 2. Terpene analysis 3. Microbial screening	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	1. Potency analysis 2. Terpene analysis 3. Residual solvent test 4. Microbial screening (only if using hemp that failed the initial test)	2 grams or less
Extract of hemp made with food grade ethanol	1. Potency analysis 2. Terpene analysis 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 2. Terpene analysis 3. Microbial screening (only if using hemp that failed the initial test)	20 grams or less
Edible hemp-infused product	1. Potency analysis 2. Terpene analysis 3. Microbial screening	2 units
Liquid hemp-infused product, including, without limitation, soda or tonic	1. Potency analysis 2. Terpene analysis 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, aflatoxin B2, aflatoxin G1 and 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> <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, a retail facility 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 usable 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.

