

**PROPOSED REGULATION OF THE
DEPARTMENT OF AGRICULTURE**

LCB FILE NO. R097-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 05/09/2018**

Sec (7) A handler must register with the Department pursuant to NRS Chapter 557.

- (a) 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 of agricultural hemp seed.
- (b) A registered handler may transfer industrial hemp commodities or products to another registered handler or sell industrial hemp commodities or products to a retailer.
- (c) Handlers who are producing products or commodities from industrial hemp for human consumption must make these products in a kitchen that has approval of local health department and that meets the standards for commercial kitchens and food safety guidelines.

Sec (8) (a) Dry weight is defined as material possessing 15.00% 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 0.3% on a dry weight basis. For inspecting a site used for growing or cultivating industrial hemp:

- (a) A fee of not more than \$50.00 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 analysis of industrial hemp pursuant to this chapter, a fee in the amount of the actual costs to the Department for sampling and analyses, 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 chemical compounds derived from industrial hemp, including CBD derived from industrial hemp.

- (a) CBD is defined as cannabidiol, which is derived from the plant *Cannabis sativa* L.

Sec (12) (7) A grower must register with the Department pursuant to NRS Chapter 557.

- (a) The Department will issue a grower's registration certificate upon payment of a non-refundable annual fee of \$500.00, and;
 - a. A \$5.00 per acre fee, and/or
 - b. A \$0.33 per 1,000.00 sq. ft. fee.

Sec (12) (7) A producer must register with the Department pursuant to NRS Chapter 557.

- (b) The Department will only issue producer's registration certificates for industrial hemp seed production to actively licensed industrial hemp growers.
- (c) The Department will issue a producer's registration certificate upon payment of a non-refundable annual fee of \$100.00, and;
 - a. A \$5.00 per acre fee, and/or
 - b. A \$0.33 per 1,000.00 sq. ft. fee.

Sec (12) (7) 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 \$1,000.00.

Sec (16) (1) Person's registered with the Department shall;

- (a) Establish and maintain chain of custody documentation, and
- (b) Keep records for not less than 2 years.
 - a. If a sale occurs, Chain of custody records shall include, but are not limited to:
 - i. Buyer; and
 - ii. Seller; and
 - iii. Quantities (ie. Yield Data); and
 - iv. Varieties; and
 - v. Dates of transfers; and
 - vi. Type of product sold; and
 - vii. Certification numbers of parties involved with transaction; and
 - viii. Quality Assurance Tests for Handling establishment.
- (c) Persons registered with the Department will report chain of custody records per 16(b) of raw material and/or extracts quarterly or at the request of the Department.

Sec (17) (1) A grower or producer must provide the Department with 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 industrial 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 of industrial hemp pursuant to this section shall report its results to the Department.

- (a) Any laboratory, with a valid business registration, issued by the Secretary of State pursuant to NRS 76.100, that has the capacity to administer tests on industrial hemp can handle the product without a Department-issued license.

Sec (19) (2) Commodities or products submitted for testing must be derived from industrial hemp which complied with the 2014 Federal Farm Bill standard of 0.3% THC or less at the time of harvest and must be accompanied by appropriate chain of custody documentation and a Department-issued registration certificate.

(a) Products that exceed 0.3% THC may not be sold pursuant to NAC 557.

Sec (19) (2) Required Quality Assurance Tests for Ingredients Intended for Human Consumption

- (a) Each independent testing laboratory must use the general body of required quality assurance tests for hemp-derived ingredients that are intended for human consumption 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 solvent 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 purposes of completing required quality assurance tests.
- (b) The test required pursuant to subsection 1 and the tolerance limits of products required for the required testing of each type of hemp or hemp-based ingredient by an independent testing laboratory are as follows:

Ingredient	Tests Required	Tolerance Limit
<i>Unaltered plant material derived ingredients, including flower, leaves, non-germinable seed, consumable fiber.</i>	<ol style="list-style-type: none"> 1. <i>Moisture content</i> 2. <i>Terpene analysis</i> 3. <i>Potency analysis</i> 4. <i>Foreign matter inspection</i> 5. <i>Mycotoxin screening</i> 6. <i>Heavy metal screening</i> 7. <i>Pesticide residue analysis</i> 	<ol style="list-style-type: none"> 1. <i>Moisture content required to be 15.00% or less for valid test.</i> 2. <i>Requirement of 0.3% THC or less for legal ingredient</i> 3-7. <i>See tolerances established in NRS 453D.200.</i>
<i>Altered plant material derived ingredients, including juiced leaves, seed oil, consumable fiber.</i>	<ol style="list-style-type: none"> 1. <i>Moisture content</i> 2. <i>Potency analysis</i> 3. <i>Foreign matter inspection</i> 4. <i>Mycotoxin screening</i> 5. <i>Heavy metal screening</i> 6. <i>Pesticide residue analysis</i> 	<ol style="list-style-type: none"> 1. <i>Moisture content required to be 15.00% or less for valid test.</i> 2. <i>Requirement of 0.3% THC or less for legal ingredient</i> 3-13. <i>See tolerances established in NRS 453D.200.</i>
<i>Ingredient derived from extracted hemp (solvent-based) made with any approved solvent, including concentrated hemp extracted by means other than CO2</i>	<ol style="list-style-type: none"> 1. <i>Potency analysis</i> 2. <i>Terpene analysis</i> 3. <i>Foreign matter inspection</i> 4. <i>Mycotoxin screening</i> 5. <i>Heavy metal screening</i> 6. <i>Pesticide residue analysis</i> 7. <i>Growth regulator screening</i> 8. <i>Total yeast and mold</i> 9. <i>Total Enterobacteriaceae</i> 10. <i>Salmonella</i> 11. <i>Pathogenic E. coli</i> 12. <i>Total coliform</i> 	<ol style="list-style-type: none"> 1. <i>Moisture content required to be 15.00% or less for valid test.</i> 2. <i>Requirement of 0.3% THC or less for legal ingredient</i> 3-13. <i>See tolerances established in NRS 453D.200.</i>

<i>Ingredient derived from extracted hemp (nonsolvent), including concentrated hemp extracted with CO2</i>	<ol style="list-style-type: none"> 1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Growth regulator screening 8. Total yeast and mold 9. Total Enterobacteriaceae 10. Salmonella 11. Pathogenic E. coli 12. Total coliform 	<ol style="list-style-type: none"> 1. Moisture content required to be 15.00% or less for valid test. 2. Requirement of 0.3 THC or less for legal ingredient 3-13. See tolerances established in NRS 453D.200.
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- (c) A sample size for plant material shall be:
 - a. 10 grams or more.
- (d) A sample size for a production run shall be:
 - a. 1% of the product weight, not to exceed 25 units or 300 grams.
- (e) All samples must be homogenized prior to testing.
- (f) As used in this section, “as received” means the unaltered state in which a sample was collected, without any processing or conditioning, which accounts for all mass, including moisture content.

Sec (19) (3) Sample Sizes Required for Testing.

- (a) Industrial hemp derived ingredients 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 incorporating industrial hemp, an extract of industrial hemp or any other industrial hemp-derived ingredient into a product intended for sale/distribution:
 - a. For plant material sold at retail, the testing must be conducted on:
 - i. A batch of 50 kilos or less.
 - b. For extracts of hemp sold pursuant to section 24 of this regulation or at retail, the testing must be conducted on:
 - i. A batch of 10 kilos or less.

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

- (a) Immediately before packaging:
 - a. Edible hemp ingredients or hemp-infused ingredients, a facility for the production of edible hemp ingredients or hemp-infused ingredients shall select a random, representative, sample from each batch for testing by an independent testing laboratory
- (b) 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.

- (c) From the time that a batch has been homogenized for sample testing and eventual packaging and sale to a retail facility, licensed dispensary, a facility for the production of edible hemp products or hemp-infused products or, if applicable, another grower 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, appropriate location for product type 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 retail facility, licensed dispensary, facility for the production of edible hemp products or hemp-infused products or, if applicable, another grower 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.
- (d) 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.
- (e) 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 established within NRS 453D.200, 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.
- (f) 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.
- (g) 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. Approved for use by the Department.
- (h) 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.
- (i) 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 licensed dispensary, a facility for the production of edible hemp products or hemp-infused products, a retail facility or, if applicable, another grower.

Sec 24 (8) Hemp Extracts; Extract testing requirements.

- (a) A facility for the production of edible marijuana products or marijuana-infused products or a licensed 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 licensed dispensary may dispense edible extract of industrial hemp products and extract of industrial hemp-infused products.
- (b) Any extract of industrial hemp acquired pursuant to this section must be tested pursuant to sections 19 to 24, inclusive, of this regulation.
- (c) Handlers not licensed by the Nevada Department of Taxation Marijuana Establishment program may produce products and commodities made from Industrial hemp. These products or commodities cannot exceed 0.3% THC. Final product testing done by a certified independent laboratory must be submitted to NDA.
- (d) Handlers who are Licensed by the Nevada Department of Taxation Marijuana Establishment program may produce products and commodities that exceed 0.3% and are subject to the rules and regulation of NDOT.

Sec (25) (g) Industrial Hemp Product Label Requirements

- (a) All hemp-based products that are intended for human consumption must be clearly labeled in 10 pt. font and according to the following requirements:
 - a. The date on which the product was packaged;
 - b. The date on which final testing occurred;
 - c. The potency levels illustrating that the product complies with tolerances;
 - d. If the product is perishable, the expiration date; and
 - e. The total quantity contained within packaging; and
 - f. The potency levels illustrating that the product complies with tolerances.
- (b) All hemp-based products that are intended for sale, but not intended for consumption must be clearly labeled in 10 pt. font and according to the following requirements:
 - a. The date on which the product was packaged;
 - b. The date on which final testing occurred; and
 - c. The potency levels illustrating that the product complies with tolerances.