1. Working group name:

*Transportation, Storage and Disposal*

1. Individual sponsor(s):

 *J. DiMuro, Nevada Chief Medical Officer*

*S. Hughes, Chief Deputy Executive Director, Dept. of Taxation*

1. Describe the recommendation:
2. *Safe disposal of marijuana products*
3. *Discussion regarding potential refund of excise tax paid on marijuana and marijuana products that have been disposed or destroyed*

*A1) Safe disposal of marijuana products is of paramount importance to the Division of Health and Human Services. There appears to be at least seven separate groups that will need to safely dispose of these products and include the following: (1) cultivation facilities; (2) distributors; (3) laboratory testing companies; (4) marijuana dispensaries; (5) law enforcement; (6) transportation centers (airport, rental car facilities, public transportation); and (7) consumer. It is generally accepted that the majority of the waste generated will be at the cultivation facility level. There are currently no regulations specific to the safe disposal of marijuana waste, especially waste seen at the aforementioned (5), (6) and (7). It is generally accepted that marijuana waste be made unusable by combining the waste with at least an equal amount of other materials prior to delivery to a landfill. Other alternative viable waste disposal entities may include a composting facility/organic waste treatment facility or solid waste incinerator.*

*Landfill Class Definitions*

*NAC 444.5705 “Class I site” defined. (NRS 444.560) “Class I site” means a disposal site which:*

*1. Is comprised of at least one municipal solid waste landfill unit including all contiguous land and structures, other appurtenances and improvements on the land used for the disposal of solid waste; and*

*2. Is not a Class II or Class III site.*

*NAC 444.571 “Class II site” defined. (NRS 444.560) “Class II site” means a disposal site:*

*1. Which is comprised of at least one municipal solid waste landfill unit;*

*2. Which accepts less than 20 tons of solid waste per day on an annual average;*

*3. For which there is no evidence of contamination of groundwater originating from the site;*

*4. Which serves a community that has no other practicable alternatives for waste management; and*

*5. Which is located in an area which annually receives no more than 25 inches of precipitation.*

*The term includes all contiguous land and structures, other appurtenances and improvements on the land used for the disposal of solid waste.*

*NAC 444.5715 “Class III site” defined. (NRS 444.560) “Class III site” means a disposal site which accepts only industrial solid waste.*

*An example of attempted proper disposal of medical marijuana waste in Las Vegas (LVMC 6.95.190) proposed Medical marijuana and any waste including wastewater must be stored, secured and managed in accordance with applicable state statutes and regulations and LVMC Title 14 and state approved disposal plan. Within ten calendar days of the expiration of use of medical marijuana, a medical marijuana establishment must dispose of medical marijuana, return it to a cultivation facility for disposal, or return it to a production facility for disposal. Medical marijuana waste must be made unusable prior to disposal. This is rather vague but understood in its intent.*

*Current NAC is the following:*

*NAC 453A.658  Sample testing; disposal of samples; standards; laboratory test results; grounds for disciplinary action.*

*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 pursuant to*[*NRS 453A.356*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec356)*and*[*NAC 453A.414*](https://www.leg.state.nv.us/NAC/NAC-453A.html#NAC453ASec414)*.*

*NAC 453A.414  Inventory control system; where establishment may acquire marijuana and related products; perpetual inventory system of manufacturing process; duties of establishment if loss is incurred. (*[*NRS 453A.370*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec370)*)*

*(9) The disposal of marijuana that is not usable marijuana, including:*

*(I) A description of and reason for the marijuana being disposed of, including, if applicable, the number of failed or other unusable marijuana plants;*

*(II) The date of disposal;*

*(III) Confirmation that the marijuana was rendered unusable before disposal;*

*(IV) The method of disposal; and*

*(V) The name and medical marijuana establishment agent registration card number of the medical marijuana establishment agent responsible for the disposal.*

*The recommendation here is for the creation of more specific regulations that can be easily understood and implemented.*

*Recommendation(s):*

*The Department of Taxation shall adopt regulations that establish regulations specific to the disposal of marijuana waste in accordance with the applicable provisions of Section 5 of the “Initiative to Regulate and Tax Marijuana” to include:*

1. *Procedures for marijuana to be made unusable when disposed by any of the following: (1) cultivation facilities; (2) distributors; (3) laboratory testing companies; (4) marijuana dispensaries; (5) law enforcement; (6) transportation centers; and (7) consumer.*
2. *Procedures for marijuana to be disposed of by any of the following: (1) cultivation facilities; (2) distributors; (3) laboratory testing companies; (4) marijuana dispensaries; (5) law enforcement; (6) transportation centers; and (7) consumer.*
3. *Maintain a public list of disposal entities allowing for the disposal of unusable marijuana products*
4. *Outline the penalties for failure to abide by appropriate disposal methods*

*Disposal of marijuana or marijuana products with regard to refunds on destroyed product*

*B1) NRS Chapter 453A and NRS chapter 372A, do not address refund allowances on the disposal of medical marijuana. Question 2, codified in NRS Chapter 453D, also does not address excise tax refunds for the spoilage or staleness of marijuana. Both the Department of Public and Behavioral Health and the medical marijuana industry indicate that most disposal or destruction occurs at the cultivation level prior to any excise tax being paid. If any disposal or destruction occurs at the production facility level, it is mostly due to contamination of product or spoilage. In these instances, the marijuana product has been used by the facility to incorporate it into the final product, such as edibles or oils. Because the contamination or spoilage most likely occurs due to the actions of the production facility, there should be no allowance for a refund of the excise tax. Minimal disposal or destruction occurs at the dispensary level, if at all, so a refund of the excise tax should not be allowed.*

*In contrast, both liquor and tobacco have provisions in statute, NRS 369.370(4) and NRS 370.280 (2), that allow for the refund of excise tax on spoiled or stale product. The difference between liquor and tobacco that has become stale or spoiled and marijuana that has been stale or spoiled is that those who purchase liquor and tobacco for resale are not altering the product whereas a production facility uses the marijuana purchased to incorporate it into another product. It is the new product that becomes spoiled or stale. Consequently, the refund is given to liquor and tobacco licensees because those entities have no fault in the spoilage or staleness of the product.*

***Recommendation:***

*No refunds claims for excise tax should be allowed on the disposal or destruction of marijuana or marijuana products. Most of the disposal or destruction of marijuana occurs prior to the excise tax being paid. Furthermore, minimal disposal or destruction of marijuana occurs after the excise tax has been paid and destruction in those instances are due mostly at the fault of the marijuana establishment.*

***Liquor Statute:***

***NRS 369.370****Payment of tax by importers and manufacturers; refund or credit; discount; extension of time for payment.*

*1.  For the privilege of importing, possessing, storing or selling liquors, all licensed importers and manufacturers of liquor in this State shall pay the excise tax imposed and established by this chapter.*

*2.  If, after the tax is paid on any such liquor, satisfactory evidence is presented to the Department that the imports have been actually exported and sold outside this State in a manner not in conflict with the law of the place of sale, the Department shall direct that a refund or credit of the tax so paid be made to the taxpayer. The taxpayer shall report all such exports and imports, and pay the tax on the imports monthly, on forms and subject to regulations prescribed by the Department.*

*3.  The excise tax imposed by this chapter is due on or before the 20th day of the following month. If all such taxes are paid on or before the 15th day of the following month, a discount in the amount of 0.25 percent of the tax must be allowed to the taxpayer. The Department may, for good cause, extend for not more than 15 days after the date the tax is due the time for paying the tax if a request for such an extension of time is received by the Department on or before the date the tax was due. If such an extension is granted, interest accrues from the original date the tax was due.*

*4.  The Department shall allow refunds or credits on any shipments lost, stolen or damaged in transit, or damaged or spoiled on the premises, may require all claims in connection therewith to be sworn to and may make ratable tax adjustments, credits or refunds to effectuate the purposes of this chapter.*

***Tobacco Statute:***

***NRS 370.280  Tax refunds.***

*2.  Upon proof satisfactory to the Department, refunds shall be allowed to cigarette dealers, or to manufacturers or their representatives, for the face value of the cigarette revenue stamp tax paid, less any discount previously allowed upon cigarettes destroyed because the cigarettes had become stale. Applications for refunds shall be submitted in an amount of not less than $15 and shall be accompanied by an affidavit of the applicant setting forth:*

*(a) The number of packages of cigarettes destroyed for which refund is claimed;*

*(b) The date or dates on which the cigarettes were destroyed and the place where destroyed;*

*(c) That the cigarettes were actually destroyed because they had become stale;*

*(d) By whom the cigarettes were destroyed; and*

*(e) Other information which the Department may require.*

*3.  Upon proof satisfactory to the Department, refunds may be allowed to licensed wholesale cigarette dealers for the face value of the cigarette metered machine stamp tax paid, less any discount previously allowed upon:*

*(a) The balance of unused stamps on the descending register of a cigarette meter machine destroyed by fire, if the cigarette meter counting positions can be determined by the manufacturer of the meter stamping machine;*

*(b) Cigarettes which were stamped on their carton covers because of stamping machine failure to open the carton and stamp the cigarette packs; or*

*(c) Cigarettes which were not stamped but were registered on the machine as being stamped because of failure of the meter counters.*

1. Which guiding principle(s) does this recommendation support?

*Guiding Principle 1 - Promote the health, safety and well-being of Nevada’s communities*

1. What provision(s) of Question 2 does this recommendation apply to?

*Section 5. Powers and duties of the Department.*

6. What issue(s) does the recommendation resolve?

*Maintains standards for proper disposal of marijuana products. Potential deleterious impact to public health without proper standards of disposal.*

1. Was there dissent in the group regarding this recommendation? If yes, please provide a

 summary of the dissenting opinion regarding the recommendation.

 *No dissent.*

1. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?

*Creation of specific regulations by the Department of Taxation for safe disposal of marijuana products and by-products.*

1. Additional information (cost of implementation, priority according to the recommendations, etc).

*To be determined.*