1. Working group name:

*Transportation, Storage and Disposal Working Group*

1. Individual sponsor(s):

*J. DiMuro, Nevada Chief Medical Officer*

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

1. Describe the recommendation:

*The recommendation regarding disposal of marijuana products and waste has two components:*

1. *Safe disposal of marijuana and marijuana products*
2. *Refund of excise tax paid on marijuana and marijuana products that have been disposed of or destroyed*

***Safe Disposal of Marijuana Products***

*Safe disposal of marijuana products is of paramount importance for consumers, non-consumers, local governments and the industry. There appears to be at least eight separate groups that will need to safely dispose of marijuana and marijuana products which includes the following:*

1. *Cultivation Facilities*
2. *Production Facilities*

*(3) Distributors*

*(4) Laboratory Testing Facilities*

*(5) Retail Stores*

*(6) Law Enforcement*

*(7) Transportation Centers (airport, rental car facilities, public transportation, and*

*(8) Consumers*

*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 (6), (7) and (8). It is generally accepted that marijuana waste be rendered unusable by combining the waste with at least an equal amount of other materials prior to delivery to a landfill.*

*It will also be important to determine which level of landfill facility or other viable waste facility will be required for the varying levels of waste created in the marijuana industry.*

*Landfills have three Class Definitions:*

1. *A Class I site means a disposal site which 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 is not a Class II or Class III site.*
2. *A class II site means a disposal site which is comprised of at least one municipal solid waste landfill unit, accepts less than 20 tons of solid waste per day on an annual average, for which there is no evidence of contamination of groundwater originating from the site, which serves a community that has no other practicable alternatives for waste management; and 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.*
3. *A class III site means a disposal site which accepts only industrial solid waste.*

*Other alternative viable waste disposal entities may include a composting facility/organic waste treatment facility or solid waste incinerator.*

***Recommendation(s):***

*The Department of Taxation should 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. Potential language to include the following:*
2. *The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent non-marijuana waste by volume. Other methods to render marijuana waste unusable must be approved by the Department before implementation.*
3. *Material used to grind with the marijuana falls into two categories: Compostable waste and non-compostable waste.*
4. *Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:*

* *Food waste*
* *Yard waste*
* *Vegetable based grease or oils, or*
* *Other waste as approved by the Department*

1. *Non-compostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:*

* *Paper waste*
* *Cardboard waste*
* *Plastic waste*
* *Soil, or*
* *Other waste as approved by the Department*

1. *Procedures for the disposal of the marijuana waste.*

*Disposal of the marijuana waste rendered unusable should be delivered to a permitted solid waste facility for final disposition. The Department will determine which level of disposal site or other viable waste facility will be acceptable for disposal. Disposal of marijuana waste may also be managed on-site by an incinerator if approved by the Department.*

*Solid and liquid wastes and wastewater generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable State and local laws and regulations. Potential language to include the following:*

1. *Waste from the production and processing of marijuana plants must be evaluated against the State's dangerous waste regulations to determine if that waste designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a dangerous waste.*
2. *Waste that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:*

* *Waste from marijuana flowers, trim and solid plant material used to create an extract*
* *Waste solvents used in the marijuana process*
* *Discarded plant waste, spent solvents and laboratory waste from any marijuana processing or quality assurance testing*
* *Marijuana extract that fails to meet quality testing*

1. *A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste unless it has been treated or contaminated with a solvent.*
2. *Marijuana waste that does not designate as dangerous waste must be rendered unusable prior to leaving a licensed production, cultivation, distribution, retail store or laboratory.*
3. *Waste that must be rendered unusable prior to disposal include, but are not limited to, the following:*

* *Waste evaluated not designated as "Dangerous Waste”*
* *Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.*
* *Solid marijuana sample plant waste possessed by third-party laboratories accredited by the Department to test for quality assurance that must be disposed of*
* *Other waste as determined by the Department*

1. *Establishments must provide the Department a minimum of seventy-two hour notice in the traceability system prior to rendering the product unusable and disposing of it.*
2. *The Department should maintain a public list of disposal entities allowing for the disposal of unusable marijuana products, and*
3. *The Department should outline the penalties for failure to abide by appropriate disposal methods*

***Refund of excise tax paid on marijuana and marijuana products that have been disposed of or destroyed***

*NRS Chapter 453A and NRS Chapter 372A, do not address refund allowances for 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:***

*The Department of Taxation should adopt regulations that establish regulations specific to the refund of excise tax paid in accordance with the applicable provisions of Section 5 of the “Initiative to Regulate and Tax Marijuana” to include the following language:*

*No refunds claims for excise tax will be allowed on the disposal or destruction of marijuana or marijuana products*

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.*