1. Working group name:

*Cultivation Working Group*

1. Individual sponsor(s):

*Lynn Hettrick – Division Administrator - Nevada Department of Agriculture*

*Tessa Rognier – Agriculturist III - Nevada Department of Agriculture*

1. Describe the recommendation:

*The recommendation is to establish for compliance with Pesticide Worker Protection Standards and Certification through Nevada Department of Agriculture (NDA) Pesticide Certification Program of at least one cultivation facility staff member in Commercial Greenhouse category for indoor cultivation and/or Commercial Agricultural Plant/Animal category for outdoor cultivation.* *Random and/or scheduled facility visits by NDA staff inspectors in conjunction with cultivation and pesticide consultations, quality assurance or for cause, such as a complaint. These provisions are required by 40 CFR Part 170 Worker Protection Standard, and 40 CFR Part 150 to 180 Pesticide Programs.*

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

*Guiding Principle 6 - Establish regulations that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable*

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

*Section 13, Subsection 5:*  *A marijuana establishment is subject to reasonable inspection by the Department, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Department. The Department shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection.*

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

*To ensure safe use of pesticides in outdoor and indoor cultivation facilities, considered under Worker Protection Standards to be indoor/outdoor greenhouses and outdoor cultivation farm establishments.*

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?

***Recommendation to add the following into regulation for cannabis cultivation facilities:***

*Certification through Nevada Department of Agriculture (NDA) Pesticide Certification Program of at least one cultivation facility staff member in Commercial Greenhouse category for indoor cultivation and/or Commercial Agricultural Plant/Animal category for outdoor cultivation. This is an existing procedure for pesticide applicators. The test typically takes less than one hour and costs $50.00.*

*Pesticide Education Consultation performed by Nevada Department of Agriculture inspectors with Cultivation Staff at initial Certification of Indoor/Outdoor cannabis cultivation facilities.*

*Submit to random and/or scheduled facility visits by NDA staff inspectors in conjunction with quality assurance or for cause, such as a complaint.*

*Provide funding for the NDA to provide the services required by federal law.*

***Applicable NAC with suggested changes:***

***NAC 453A.306  Applications to operate establishment: Required provisions. (***[*NRS 453A.322*](http://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec322)***,***[*453A.344*](http://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec344)***,***[*453A.370*](http://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec370)***)****An application submitted in response to a request for applications issued pursuant to*[*NAC 453A.304*](http://www.leg.state.nv.us/nac/nac-453a.html#NAC453ASec304)*must include:*

***11.*** *Evidence that the applicant has a plan to staff, educate and manage the proposed medical marijuana establishment on a daily basis, which must include, without limitation:*

*(a) A detailed budget for the proposed medical marijuana establishment, including pre-opening, construction and first year operating expenses;*

*(b) An operations manual that demonstrates compliance with this chapter;*

*(c) An education plan which must include, without limitation, providing educational materials to the staff of the proposed medical marijuana establishment; and*

*(d) A plan to minimize the environmental impact of the proposed medical marijuana establishment.*

*(e) At least one Certified Pesticide Applicator at each facility, certified by the Nevada Department of Agriculture pesticide program, in the Greenhouse Category for indoor/outdoor greenhouse marijuana cultivations and/or Agricultural Plant and/or Agricultural Animal Categories for outdoor marijuana cultivation depending on the type of cultivation facility.*

***CHAPTER 555 - CONTROL OF INSECTS, PESTS AND NOXIOUS WEEDS***

***NAC 555.440******Precautionary requirements. (***[*NRS 555.380*](http://www.leg.state.nv.us/NRS/NRS-555.html#NRS555Sec380)***,***[*555.400*](http://www.leg.state.nv.us/NRS/NRS-555.html#NRS555Sec400)***)***

*1. A licensee or certified applicator engaged in the application of pesticides shall exercise reasonable precautions to protect persons, animals, crops and property from harm or damage.*

*2. A pesticide or its empty container must not be disposed of or left unattended where it may present a hazard to any person, animal, crop or property, or be disposed of in a manner likely to cause injury. A licensee or certified applicator shall ensure that all empty containers are removed from the operations work site or otherwise safeguarded.*

*3. A licensee or certified applicator engaged in the application of pesticides shall:*

*(a) Provide his or her employees with the information, precautions and safety equipment required by the manufacturer of the pesticide or recommended by the Department; and*

*(b) Ensure that any safety equipment provided pursuant to paragraph (a) is in good working order.*

*4. A licensee or certified applicator engaged in the application of pesticides shall use materials, dosages, formulas, devices and methods of application and disposal only in accordance with the directions on the label of the pesticide or device registered by the Environmental Protection Agency, registered by the Department or in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.*

*5. A licensee who performs a preconstruction treatment to the soil using a liquid termiticide shall use, unless otherwise authorized by the Director:*

*(a) A flow metering device which is accurately calibrated to display the number of gallons of termiticide dispensed pursuant to*[*NAC 555.410*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec410)*,*[*555.428*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec428)*and*[*555.700*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec700)*; or*

*(b) A measuring device which is accurately calibrated by the equipment manufacturer to display the number of gallons of termiticide dispensed pursuant to*[*NAC 555.410*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec410)*,*[*555.428*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec428)*and*[*555.700*](http://www.leg.state.nv.us/nac/nac-555.html#NAC555Sec700)*.*

*[Dep’t of Agriculture, part No. 55.34, eff. 6-1-59; A 7-1-69; 5-22-72; + part No. 55.37, eff. 8-1-74; A 1-17-77] — (NAC A 2-5-82; R033-01, 5-1-2002; R062-10, 1-13-2011)*

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

***Following is an estimate based on the Colorado funding requirements;***

*Example staffing and equipment: Colorado Department of Agriculture added 14 FTEs*

***Calculations estimates for staffing, equipment and revenue***

* *Three investigation specialists*
* *Nine inspectors*
* *One cannabis education specialist*
* *One chemist*
* *Obtained $860,000 in additional lab equipment*
* *Added $337,000 to legal services budget*
* *Including operating, ~ $1.6 million this year*
* *All paid for by marijuana sales tax*

***Nevada staffing and equipment estimates:***

* *Six inspectors*
* *One education specialist*
* *One program manager*
* *Lab equipment – $520,000*
* *The NDA proposes to provide the* ***cultivation****,* ***proficiency testing*** *and* ***other******testing******services*** *required in Section 2 of the Initiative, services which the Department of Taxation does not have in-house, by using 1 percent (leaving 14 percent as remaining revenue) of the excise tax imposed on the wholesale price of recreational marijuana sales.*