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:

*Recommendation is to adopt the existing statutes for Medical Marijuana Cultivation to proposed Outdoor and Indoor Cultivation of Adult Marijuana in regards to pesticides that can be applied on marijuana crops in the state of Nevada. Recommendation to also adopt the Medical Marijuana DPBH policies and statutes that establish testing tolerances for Certified Testing Laboratories for these substances and other prohibited substances.*

***PESTICIDES USED ON MEDICAL MARIJUANA***

***NRS 586.550  Requirements for use of certain pesticides by ~~medical~~ marijuana establishments; publication of list of approved pesticides for use on ~~medical~~ marijuana.***

*1.   A marijuana establishment may use a pesticide in the cultivation and production of marijuana, edible marijuana products and marijuana-infused products if the pesticide:*

*(a) Is exempt from registration pursuant to 40 C.F.R. § 152.25 or allowed to be used on Crop Group 19, as defined in 40 C.F.R. § 180.41(c)26, hops or unspecified crops or plants;*

*(b) Has affixed a label which allows the pesticide to be used at the intended site of application; and*

*(c) Has affixed a label which allows the pesticide to be used on crops and plants intended for human consumption.*

*2.  The State Department of Agriculture shall, in accordance with the provisions of this chapter, establish and publish a list of pesticides allowed to be used on ~~medical~~ marijuana pursuant to this section and accept requests from pesticide manufacturers and ~~medical~~ marijuana establishments, or a representative thereof, to add pesticides to the list.*

*3.  As used in this section:*

*(a) “Edible marijuana products” has the meaning ascribed to it in*[*NRS 453A.101*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec101)*.*

*(b) “Marijuana” has the meaning ascribed to it in*[*NRS 453A.110*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec110)*.*

*(c) “Marijuana-infused products” has the meaning ascribed to it in*[*NRS 453A.112*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec112)*.*

*(d) “Medical marijuana establishment” has the meaning ascribed to it in*[*NRS 453A.116*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec116)*.*

*(Added to NRS by*[*2015, 3103*](https://www.leg.state.nv.us/Statutes/78th2015/Stats201529.html#Stats201529page3103)*)*

*Adopt into regulation the current policy on Pesticide Use and Testing (MME018) as follows:*

*Pursuant to Senate Bill (SB) 447, signed by the Governor on June 10, 2015, a marijuana establishment shall only use a pesticide if the pesticide has been approved by the Nevada Department of Agriculture (NDA) for use on marijuana. Independent Testing Laboratories must analyze for pesticides designated by Department of Taxation at detection levels specified by the Department. Further, at its discretion, the Department may require Independent Testing Laboratories to test for other substances including fungicides, herbicides, or growth regulators that are not identified above.*

1. *Each Independent Testing Laboratory will collect a random sample from a cultivation or*

*production facility for pesticide testing, as specified in Nevada Administrative Code (NAC)*

*453A.658 (1).*

1. *Each Independent Testing Laboratory shall perform a Mass Spectrometry pesticide analysis*

*test using a combination of both Gas Chromatography-Mass Spectrometry (GC-MS) and Liquid* Chromatography-Mass Spectrometry (LC-MS) techniques to detect the pesticides designated by the Department. The methodologies used by the laboratory must be able to detect all identified pesticides at the detection levels specified by the Department. Any batch with pesticide residue above the specified detection levels for NDA approved products is deemed failed.

1. *Any measurable and positively verified detection of a pesticide/analyte not on the list of*

*pesticides approved by the NDA, will result in a failed test.*

1. *The results of all failed pesticide tests will be reported to the Department via hard copy to the MME’s assigned Inspector, and electronic copy to the Inspector, Auditor and Program Manager. The report will include the analyte name and concentration of residue detected.*
2. *If a lot fails a pesticide test, it shall not be manufactured, packaged, labeled for sale or*

*otherwise processed, but shall be destroyed. Upon notification of the failed test, the Marijuana Establishment will* continue to quarantine the lot per NAC 453A.658, and schedule an appointment with the Marijuana Program for its destruction. A Department staff member shall witness the destruction of the lot. If this destruction procedure is not strictly complied with, disciplinary action may be taken pursuant to NAC 453A.658 (12).

1. *If an Marijuana Establishment believes that the results of the pesticide testing were not accurate, the Marijuana Establishment may request one retest at its own expense from the Nevada Department of Agriculture.*
2. *If the Marijuana Establishment wishes to reserve the option of requesting a retest from the Nevada Department of Agriculture per Section 4.6, then twice the “Sample Size Needed to Complete all Tests” from the table in NAC 453A.654 must be provided to the Independent Testing Laboratory at the time of sample collection*
3. *The Nevada Department of Agriculture will maintain a Marijuana Pesticide List and the Division and Department will maintain a Pesticide Monitoring List*
4. *If technology becomes available to effectively remediate pesticide residue in marijuana or marijuana extracts, the department will review this technology and determine through applicable research and development testing whether this can become an approved remediation technique to allow failed lots to be repurposed for sale.*
5. Which guiding principle(s) does this recommendation support?

*Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments and the industry*

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

*Guiding Principle 7 - Take action that is faithful to the text of Question 2*

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

*The provisions of Question 2 that allow for Outdoor Cannabis Cultivation, as opposed to Medical Cultivation which must be inside a warehouse or greenhouse facility.*

*Section 2, subsection (g): Marijuana sold in the state will be tested and labeled*

*Section 3, subsection 15: “Marijuana testing facility” means an entity licensed to test marijuana and marijuana products, including for potency and contaminants*

*Section 13, Subsection 2: All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Department and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 8 feet high.*

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

*Establishes clear and practical guidelines that regardless of which program the marijuana is cultivated under, the policy will remain uniform in application.*

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?

*1. Adopt existing Medical Marijuana DPBH statutes and policies for the retail marijuana regulations.*

*2. Department of taxation to adopt DPBH policy MME018 as written above, and adopt current DPBH monitoring list for labs*

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

*None*