1. Working group name:

*Labs Working Group*

1. Individual sponsor(s):

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

*Alec Garcia- 374 Labs*

*Ed Alexander- Common Sense Botanicals*

*Shane Johnson- Silver State Trading*

*Darryl Johnson- Ace Analytical*

*David Grenz- Nevada Department of Agriculture*

1. Describe the recommendation:

*To maintain the State’s high quality standards and testing requirements for both patient and recreational consumers, as well as maintaining a single inventory stream between Medical and Recreational products. The recommendation is to adapt the Medical Marijuana DPBH policies, regulations and statutes that establish batch/lot size, testing tolerances and testing requirements for Independent Testing Laboratories for safety and compliance testing of both medical and recreational marijuana.*

*It is also recommended that, within 18-24 months, the existing regulations be reviewed and amended based on accumulated data from ISO accredited laboratories and the Department of Agriculture to phase in the use of statistically significant sample sizes while increasing the lot size to minimize the fiscal impact on cultivators and consumers. It is anticipated that the growth in total sales will provide enough testing to protect the existing independent laboratories.*

*A new sampling protocol will be developed by the Department of Agriculture for laboratories to follow while collecting samples to ensure a representative sample is selected from the Lot. The Department of Agriculture will provide protocols for lot control using mechanisms such as, tamper resistant products, numbering of the lot, record the weight or quantity and seal each package of harvested material or production run which is included in a single laboratory test*

*As described in the separate recommendation regarding Accreditation, Validation and Auditing, the Department of Agriculture will be involved in the ~~Accreditation~~ Certification and Auditing of Independent Testing Laboratories moving forward. All Independent Testing Laboratories will be inspected by the Department of Agriculture ~~by~~ beginning January 1st 2018 ~~or prior to certifying any lot for sale~~ as available funding allows.*

*To ensure proper sampling and lot control the ~~following~~ working group suggested the following adaptations to NAC.*

***NAC 453A.061  “Lot” defined. (***[*NRS 453A.370*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec370)***)****”Lot” means:*

*1. The flowers from one or more marijuana plants of the same strain, in a quantity that weighs 5 pounds or less;*

*2. The leaves or other plant matter from one or more marijuana plants, ~~other than full female flowers~~, in a quantity that weighs 15 pounds or less that is destined for extraction ; or*

*3. The wet leaves or other plant matter from one or more marijuana plants used only for extraction, in a quantity that weighs 125 pounds or less.**Wet is defined as having a moisture* content of 50% or greater during testing and extraction.

NAC 453 “Sampling Protocols” defined. “Sampling protocols” means the sampling procedures specified by the Department which are required to be used to obtain samples of marijuana for quality assurance testing.

***NAC 453A.654  Required quality assurance tests. (***[*NRS 453A.370*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec370)***)***

*1.  Each independent testing laboratory must use the sampling protocols required in this section and the general body of required quality assurance tests for usable marijuana, as received, concentrated cannabis, marijuana-infused products and edible marijuana products 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 solvents levels. An independent testing laboratory may request additional sample material for the purposes of completing required quality assurance tests. An independent testing laboratory may retrieve samples from the premises of another ~~medical~~ marijuana establishment and transport the samples directly to the laboratory.*

***NAC 453A.658  Sample testing; disposal of samples; standards; laboratory test results; grounds for disciplinary action. (***[*NRS 453A.370*](https://www.leg.state.nv.us/NRS/NRS-453A.html#NRS453ASec370)***)***

*1.  Immediately before packaging:*

*(a) Raw marijuana for sale to a ~~medical~~ marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or another cultivation facility, a cultivation facility shall segregate all harvested marijuana into homogenized lots of flower and trim, respectively, and allow an independent testing laboratory to select a representative sample for testing from each lot the cultivation facility has segregated. The independent testing laboratory which performs the test must collect the samples. If the cultivation facility has segregated the lot of harvested material into packages or container sizes smaller than the entire lot as defined in NAC 453A.061, the independent laboratory must*

1. *take an equal amount of the harvested material from each container presented and homogenize the harvested material to create a sample which is representative of the entire lot, or*
2. *sample and test each package containing harvested material from the lot presented for testing.*

*(b) Concentrated cannabis, edible marijuana products or marijuana-infused products, a facility for the production of edible marijuana products or marijuana-infused products shall allow an independent testing laboratory to select a random sample from each lot or production run for testing by the independent testing laboratory. The independent testing laboratory performing the testing must collect the samples.*

*2.  An independent testing laboratory that receives a sample pursuant to this section shall:*

1. *Using tamper resistant products, number the lot, record the weight or quantity and seal each package of harvested material or production run which is included in a single laboratory test.*
2. *Test the sample as provided in NAC 453A.654.*

*3.  From the time that a lot or production run has been homogenized for sample testing and eventual packaging and sale to a ~~medical~~ marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or, if applicable, another cultivation facility 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 lot or production run, except the samples that have been removed by the independent testing laboratory for testing. During this period of segregation, the facility which provided the sample shall maintain the lot or production run in a secure, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy and maintain the integrity of the tamper resistant seal applied by the independent testing laboratory. Under no circumstances shall the facility which provided the sample sell the marijuana or edible marijuana products or marijuana-infused products, as applicable, to a ~~medical~~ marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or, if applicable, another cultivation facility 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.*

*Full Medical Testing requirements and DPBH Regulations and Policies are attached to this recommendation for reference.*

1. 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?

*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*

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

*Establishes clear and practical guidelines that regardless of which program the marijuana is cultivated under(medical or recreational), the laboratory testing policy will remain uniform in application and the product can be available for sale to both ~~medial~~ medical and recreational customers eliminating the need for tracking of dual inventory.*

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?

*Department of Taxation to adapt DPBH regulations and policy attached.*

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

*The recommendation adds no additional cost to the laboratories, cultivators or producers as it mirrors the existing structure. This recommendations maintains the ability for a single stream inventory until point of sale.*

*Per previous recommendations, the Department of Agriculture will need to be funded in order to carry out the proposed data collection, laboratory inspection/~~accreditation~~ certification etc. A consolidated budget proposal ~~by Agriculture~~ has been submitted to the Department of Taxation for review.*

*We feel the existing lot size definition requires additional clarification and have added suggested verbiage for consideration.*