

## Hemp in Nevada



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## Hemp - Defined



- **Industrial Hemp (*Cannabis sativa* L.)**
  - Defined within the 2018 Federal Farm Bill, Sec 297A
    - “(1) HEMP.—The term ‘hemp’ means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”
  - Hemp and marijuana differ on a chemical basis.

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## Nevada Hemp Regulation

### February 2014

The 2014 Federal Farm Bill legalized the research and development of hemp under state department of agriculture supervision.

### 2016

SB 305 regulations codified.

### December 2018

The 2018 Farm Bill fully legalized the production of hemp for states that have USDA approved hemp programs and established a national regulatory framework for hemp production.

### October 2019

USDA published the Interim Final Rule, which governs the production of hemp under the 2018 Farm Bill and required state plans to be submitted to USDA.

### June 2015

Hemp production was approved through SB 305.

### June 2017 - First growing season

Hemp approved for limited processing through SB 396.

### June 2019

SB 347 and SB 209 signed into law, revising statutes to reflect the 2019 Federal Farm Bill and establish retesting opportunities.

### October 31, 2020

State plans must be approved by USDA when the 2014 Farm Bill expires on October 31, 2020.

- January 19<sup>th</sup>, 2021: USDA released the Final Rule
- March 22<sup>nd</sup>, 2021: Final Rule effective date

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## Hemp Regulatory Evolution in Nevada

- **2014 Farm Bill**
  - Permitted research projects only.
- **Nevada Senate Bill 305 (NRS 557)**
  - Governor Approval: 06/04/2015-Growing
- **Nevada Administrative Code Ch. 557**
  - Codified: 03/10/2016
- **Nevada Senate Bill 396 (NRS 557)**
  - Governor Approval: 06/01/2017-Handling
- **2018 Federal Farm Bill**
  - Enacted 12/20/2018
  - Legalizes hemp production for commercial use under federally approved state programs.
- **Nevada Senate Bill 347 (Revising NRS 557)**
  - Codified: 05/28/2019
  - Revised NRS 557 to reflect the 2018 Farm Bill language, repealed portions relating to research and development that implemented 2014 Farm Bill in Nevada
- **Nevada Senate Bill 209 (Revising NRS 557)**
  - Codified: 06/02/2019
  - Revised NRS 557 testing and labeling requirements for finished products
- **USDA Interim Final Rule**
  - Published 10/31/2019
  - Effective 10/31/2019 – 11/1/2021
- **Final Rule**
  - Published 1/19/2021
  - Effective 3/22/2021
- **Nevada Administrative Code (NAC) 557 Temporary Regulation; LCB T001-21**
  - Filed 2/17/2021
  - Active through November 2021.

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## Federal Regulations/Involvement

### 2014 Federal Farm Bill

- Section 7606:
- "an institution of higher education (as defined in section 1001 of title 20) or a State department of agriculture may grow or cultivate industrial hemp if:
  - (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
  - (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs."



### 2018 Federal Farm Bill

- Hemp Farming Act of 2018:
- A State...desiring to have primary regulatory authority over the production...shall submit to the Secretary, through the State department of agriculture, as applicable, a plan under which the State monitors and regulates that production...
- A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe...
- The term 'marihuana' does not include hemp, as defined in section 297A of the Agricultural Marketing Act of 1946

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## NDA Approach to Hemp

### • Three Certification Categories:

- **Hemp Grower:**
  - A producer of hemp crops in Nevada.
  - Application Fees:
    - \$500.00\* Flat Fee &
    - \$5.00/acre and/or;
    - \$0.33/1,000 Square Feet
- **Hemp Seed Producer:**
  - A certified grower that intentionally produces agricultural hemp seed for distribution.
  - Application Fees:
    - \$100.00 Flat Fee &
    - \$5.00/acre and/or;
    - \$0.33/1,000 Square Feet
- **Hemp Handler:**
  - An entity that receives raw material hemp for agricultural processing into commodities.
    - Approved Handlers: Grinding, pressing, seed cleaning, or various forms of oil extraction.
    - **Hemp Handler certificates do not apply to businesses in-taking processed hemp commodities such as CBD oil, isolate, or distillate and are processing further into final products.**
  - Application Fees:
    - \$1,000.00 Flat Fee

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## Industrial Hemp: Grower

- **Regulatory Protocol:**
  - **Step 1:** File an Application
  - **Step 2:** Application is reviewed by Department staff for eligibility
  - **Step 3:** Certificate is issued
    - Certificates are valid from date of issuance through December 31 of the issued year.
  - **Step 4:** NDA Compliance inspection conducted to test hemp varieties for THC.
    - Sampling must occur 30 days prior to harvest as of 3/22/2021 per the Final Rule.
  - **Step 5:** Chemical analysis is completed and Report of Analysis (ROA) is issued to the certificate holder.

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## Hemp Grower Application

- **Application Requirements**
  - **Contact Info:**
    - Business name, contact name, email, phone, mailing address, SSN (Per NRS 557)
  - **Site Information:**
    - Physical address, GPS coordinates, a map of the intended growing site, indoor/outdoor, production intent, hemp varieties, supplier of seed/clones/starts
  - **Attachments:**
    - Copy of the business license, notarized letter of landowner approval, local jurisdictional approval, proof of water rights for agricultural production, the registrant's current FBI criminal history report (per NAC 557.100 and LCB T001-21 Section 10 )



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## Grower Application Attachments

- **Business License**
  - If applying under a business registered with the Secretary of State.
- **Local Jurisdictional Approval**
  - Zoning verification, letter from the county, permitted activities described in the business license, etc.
- **Notarized Letter of Landowner Approval**
  - If the applicant **is** the legal landowner NDA staff verify through County Assessor Website.
  - If applicant **is not** the legal landowner, a notarized authorization letter is required.
- **Criminal History Report:**
  - Must be current and requested from the FBI.
  - Required per LCB T001-21 Section 10 and the USDA Final Rule
  - No drug related felony charges within the last 10 years.
- **Proof of Water Rights**
  - Water must be appropriately sourced and permissible for agriculture use.

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## Prior to Harvest

- **Preliminary Site Inspection:**
  - Conducted to verify that hemp was planted in the area specified on the application.
- **Compliance Inspection:**
  - The NDA must collect a representative sample of every hemp variety in Nevada to be analyzed for THC compliance.
    - Sampling prior to harvest is mandated per the Final Rule and LCB T001-21 Sec 11.
  - Compliance inspection is scheduled after the submission of an *“Inspection Request/Hemp Harvest Report.”*



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# Chemical Analysis

- **NDA Chemistry Laboratory**
  - Only NDA results are sufficient to establish compliance. Third party lab results are not permissible for compliance.
    - Growers may use third party labs for crop monitoring.
- **Analysis Method**
  - Post-decarboxylated or similarly reliable method per the 2018 Farm Bill.
  - High Performance Liquid Chromatography (HPLC)
  - 100% conversion rate for THC-A to THC.
  - Equation:  $((\text{THC-A})(0.877)) + \Delta^9\text{-THC} = \text{Total Potential THC}$ 
    - Delta-9 THC not permissible per USDA guidelines
  - Measurement of Uncertainty (MU) allows for samples 0.36% Total Potential THC and below to be compliant.

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# Report of Analysis (ROA)

Nevada Department of Agriculture  
405 S. 21<sup>st</sup> Street  
Sparks, NV 89431



## Hemp Report of Analysis 2021

For the requirements of Nevada's 2018 Farm Bill (NRS 553.270), hemp crops must be tested to determine percent concentrations of delta-9 tetrahydrocannabinol (THC) on a dry weight basis. Hemp is defined as the plant Cannabis sativa L., and any part of such plant, whether growing or not, with a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp. Total potential THC concentrations reported below determine crop compliance to NRS 553.270.

<b>Producer's Information</b>	
Name: _____	Phone Number: _____
Address: _____	Email: _____
Part of Plant: _____	Variety: _____
Flower and Plant Material	Field Number: _____
Sampled Mass: 0.00g	
Test Requested: _____	
Total Potential THC: _____	Other: _____

The information in the above box is to be provided by the inspector.

Tetrahydrocannabinol (THC) Analysis	Remarks
[THC-A] 0.00 %	Tested using High Performance Liquid Chromatography (HPLC)
[Δ <sup>9</sup> -THC] 0.00 %	ND= None Detected
[Total Potential THC] 0.00 %	Low than 0.36% delta-9-THC
	0.877(THC-A) + Δ <sup>9</sup> -THC = Total Potential THC

**Testing Conclusions:**  
Analysis results indicate that crop qualifies for cultivation to legally meet the description of hemp. A result of 0.36% total potential THC or below is compliant with the NDA hemp program.

Signature: \_\_\_\_\_

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- **Final Results Reported**
  - Report of Analysis (ROA) is sent to the certificate holder with all identifying information and chemistry results included.
  - Grower information
  - Variety information
  - THC-A
  - Delta-9 THC
  - Total Potential THC
  - NDA signature
- **Transportation of Material**
  - Transport is at the risk of the grower
  - Recommended documentation for travel:
    - Copy of the state-issued certificate
    - Copy of the state-issued ROA validating the compliance of the variety
    - A chain of custody

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## Non-Compliant Hemp Crop

- **What happens in the event that a hemp variety tests above the 0.36% Total THC threshold?**

- 1. Retest and Option for Resample**

- The NDA chemistry staff will re-analyze the sample to validate the non-compliance.
- Submitting a second Harvest Report, a grower can request a resample of the hemp variety.

- Only one resample per variety permitted.

- 2. Disposal or Remediation**

- Non-compliant hemp crops must be disposed or remediated in a method approved by the USDA as written in the Final Rule.
  - » [Hemp Remediation and Disposal Guidelines Issued January 15, 2021](#)
    - **Disposals:** Plowing under, mulching/composting, disking, bush mower/chopper, deep burial, and burning.
    - **Remediation:** Disposing all hemp flower material and retaining stalks, leaves, and seeds or shredding the entire hemp plant to create "biomass" that is then retested for compliance.
- The grower must submit a Crop Disposal or Remediation Plan to the NDA for review and approval.
- Disposals and remediation must be overseen by NDA staff.



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## Questions?



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