

**PROPOSED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB FILE NO. R188-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 07/18/2024**

Proposed Amendments to Chapter 557 of the Nevada Administrative Code (NAC)

Plant Health & Compliance Division



Nevada
Department
of Agriculture

Memo

To: Meghan Brown, Administrator, Plant health & Compliance Division
From: Taylor Hollaway, Agriculturist II
Date: July 17, 2024
Subject: Proposed Amendments to Chapter 557 of the NAC

Justification:

“Acceptable hemp THC level” defined in NAC 557.011 does not currently meet the federal definition in the USDA Final Rule (7 CFR 990.1) established March 22, 2021. This definition does not include the wording “total THC” and “total delta-9-tetrahydrocannabinol”. NAC 557 does not have a definition for Total THC. 7 CFR 990.1 defines “Total THC” as the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis 7 CFR 990.1 defines “Acceptable hemp THC level” as: When a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of State or Tribal hemp plans or the USDA hemp plan is when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3 percent or less. NAC 557.136 l does not include “Total THC” when referring to acceptable hemp THC levels.

Proposed Changes to Chapter 557

Following is the language of the revisions currently being proposed to NAC Chapter 557. Language proposed to be deleted from the regulations are shown in **red strikethrough** and proposed additions are in *bold blue italics*.

NAC 557.011 “Acceptable hemp THC level” defined. ([NRS 557.260](#)) “Acceptable hemp THC level” means a ***Total*** THC content concentration level on a dry weight basis that, when reported with the laboratory’s measurement of uncertainty, produces a distribution or range that includes a ***Total*** THC content concentration level on a dry weight basis that is equal to or less than the maximum ***Total*** delta-9-tetrahydrocannabinol concentration level on a dry weight basis for hemp established by 7 CFR 990.1.

(Added to NAC by Dep’t of Agriculture by R011-21, eff. 10-25-2021)

“Total THC” defined. as the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation,

that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. The department will use the following conversion: $[Total\ THC = (0.877 \times THCA) + THC]$ 0.877 being the mass ratio conversion when THCA is converted to THC. 7 CFR 990.1

NAC 557.136 Testing procedures; report of results required before crop enters stream of commerce. ([NRS 557.260](#), [557.270](#))

1. The testing required pursuant to [NRS 557.270](#) must be conducted using testing procedures that meet the requirements set forth in 7 C.F.R. § 990.3. Such testing procedures must include, without limitation:

- (a) The conversion of delta-9-tetrahydrocannabinolic acid (THCA) into THC using a post-decarboxylation or similarly reliable method; or
- (b) Other methods that meet the requirements set forth in 7 C.F.R. § 990.3.

2. In determining whether a crop has a **Total** THC concentration that exceeds the acceptable hemp THC level, the Department will use a measurement of uncertainty that meets:

- (a) The requirements set forth in the publication adopted by reference pursuant to [NAC 557.131](#); and
- (b) Any requirements set forth in 7 C.F.R. Part 990.

3. A registrant shall not allow a crop to enter the stream of commerce until the registrant has received a report issued by the Department pursuant to subsection 4 of [NRS 557.270](#) indicating that the crop contains a **Total** THC concentration that does not exceed the acceptable hemp THC level.

(Added to NAC by Dep't of Agriculture by R011-21, eff. 10-25-2021)