

LCB File No. R081-99

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

NEVADA DEPARTMENT OF AGRICULTURE
350 CAPITOL HILL AVE.
RENO, NEVADA 89502-2923
(775) 688-1180

NOTICE OF WORKSHOP

A workshop will be held on proposed amendments to the following Nevada Administrative Codes:

- 1. PROPOSED AMENDMENTS TO NAC 555 PERTAINING TO ENFORCEMENT ACTIONS ON PESTICIDE VIOLATIONS, CIVIL COMPLAINT, CASE REVIEW COMMITTEE AND NOTICE OF WARNING**
- 2. PROPOSED AMENDMENTS TO NAC 555.2567 PERTAINING TO THE DEFINITION OF A SERIOUS VIOLATION AND NAC 555.340 PERTAINING TO THE MINIMUM WAITING PERIOD FOR RETESTING BY AN APPLICANT FOR A PEST CONTROL LICENSE.**
- 3. PROPOSED AMENDMENTS TO NAC 555.290 PERTAINING TO CONTINUING EDUCATION REQUIREMENTS FOR LICENSED APPLICATORS.**

DATE:	July 20, 1999	July 27, 1999
TIME:	1:00 p.m.	1:00 p.m.
PLACE:	Las Vegas Office Nevada Department of Agriculture 2300 McLeod Street Las Vegas, Nevada	Reno Office Nevada Department of Agriculture 350 Capitol Hill Avenue Reno, Nevada

For clarification on the proposed amendments, or to obtain a copy of the proposed amendments, contact Robert Grownowski at (775) 688-1182 ext. 239.

Addresses at which the text of the proposed regulations may be inspected and copied:

The Nevada State Library in Carson City, and all Nevada County libraries. The Department of Agriculture offices in Reno, Sparks, Elko, Las Vegas, or Winnemucca during the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday.

DATE: August 26, 1999

TIME: 1:00 P.M.

PLACE: Nevada Department of Agriculture
Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801

Manner: Written comments and testimony may be submitted prior to the hearing date and will be included with any verbal testimony presented in the record of the hearing.

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**Nevada Department of Agriculture
350 Capitol Hill Ave.
Reno, NV 89502**

**Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431**

**Nevada Department of Agriculture
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**Nevada Department of Agriculture
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**Nevada Department of Agriculture
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**Nevada Department of Agriculture
2300 McLeod
Las Vegas, NV 89104**

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, call Robert Gronowski at the Nevada Department of Agriculture, 688-1182 ext. 239 as soon as possible.

NRS 233B.064 Permanent regulations not to be adopted until text approved or revised by the Legislative Counsel; agency's reasons for adoption.

2. Upon adoption of any regulation, the agency, if requested to do so by an interested person before adoption, or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reasons for overruling the consideration urged against adoption.

Paul Iverson /s/
Paul Iverson, Director

7-6-99
Date

NOTICE AND INTENT TO ADOPT REGULATIONS

The Nevada Department of Agriculture

PROPOSED AMENDMENTS TO NAC 555 SECTIONS 1 TO 4 PERTAINING TO ENFORCEMENT ACTIONS, CIVIL COMPLAINT, CASE REVIEW COMMITTEE AND NOTICE OF WARNING.

Need and purpose of the proposed amendments:

1. Provides alleged violators an informal case review.
2. Informs alleged violators of hearing rights.
3. Notifies alleged violators on the nature of the violation and the enforcement action being taken by the Department.
4. Defines a notice of warning and when a notice of warning will be the only action taken against the alleged violator.

Economic effect of the proposed amendments on the business which it is to regulate:

1. Adverse effects:
Informal case review is a voluntary request. If requested, violators would lose the time used on the informal review which could have been devoted to their business.
2. Beneficial effects:
Violators have an opportunity to demonstrate non culpability and/or mitigating circumstances involved in the violation which could reduce enforcement action or dismiss the violation.
3. Immediate and long term economic effects:

The adverse and beneficial economic effects are the same for immediate and long term economic effects.

Economic effects of the proposed amendments on the public:

1. Adverse effects:
None
2. Beneficial effects:
The pesticide laws and regulations which will protect the public will be properly enforced.
3. Immediate and long term:

The adverse and beneficial effects are the same for the immediate and long term economic effects.

Economic cost to the agency for the enforcement of the proposed amendments:

There will be no additional costs to the agency for the enforcement.

Description of any regulations of any other state, local or federal regulation that the proposed amendments overlap or duplicate:

There are no other state, local, or federal government regulations that these amendments overlap or duplicate.

Fees:

The proposed amendments do not contain any new fees or increase any existing fees.

The date, time, place, and manner in which interested parties may present their views on the proposed amendments:

DATE: August 24, 1999

TIME: 1:00 p.m.

PLACE: Nevada Department of Agriculture
350 Capitol Hill Avenue
Reno, Nevada 89502

Nevada Department of Agriculture
1200 E. Winnemucca Blvd.
Winnemucca, Nevada 89445

Nevada Department of Agriculture
2300 McLeod
Las Vegas, Nevada 89104

NOTICE AND INTENT TO ADOPT REGULATIONS

The Nevada Department of Agriculture

PROPOSED AMENDMENTS TO NAC 555.2567 PERTAINING TO THE DEFINITION OF A SERIOUS VIOLATION AND NAC 555.340 PERTAINING TO THE MINIMUM WAITING PERIOD FOR RETESTING BY AN APPLICANT FOR A PEST CONTROL LICENSE.

Need and purpose of the proposed amendments:

1. Makes conducting pest control with out a license a serious violation.
2. Decreases the number of days an applicant for a principal license must wait to retake an examination after failure to pass the examination.

Economic effect of the proposed amendments on the business which it is to regulate:

1. Adverse effects:
Conducting pest control with out a license will become subject to an increased fine.

There are no adverse effects to decreasing the waiting period for reexamination.
2. Beneficial effects:
Decreasing the waiting period will allow additional time to pass the examination. This will benefit companies who have only one employee qualified to take the principal exam.
3. Immediate and long term economic effects:

The adverse and beneficial economic effects are the same for immediate and long term economic effects.

Economic effects of the proposed amendments on the public:

1. Adverse effects:
None
2. Beneficial effects:
The pesticide laws and regulations which will protect the public will be properly enforced.
3. Immediate and long term effects:
The adverse and beneficial effects are the same for the immediate and long term economic effects.

Economic cost to the agency for the enforcement of the proposed amendments:

There will be no additional costs to the agency for the enforcement.

Description of any regulations of any other state, local or federal regulation that the proposed amendments overlap or duplicate:

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NOTICE AND INTENT TO ADOPT REGULATIONS

The Nevada Department of Agriculture

PROPOSED AMENDMENTS TO NAC 555.290 PERTAINING TO CONTINUING EDUCATION REQUIREMENTS FOR LICENSED APPLICATORS.

Need and purpose of the proposed amendments:

Establishes a continuing education requirement for licensed applicators. Knowledge of pesticides, safe use and handling is rapidly changing and applicators need to keep informed on the latest information. Knowledgeable applicators will protect the public health and prevent environmental damage.

Economic effect of the proposed amendments on the business which it is to regulate:

1. Adverse effects:
Applicators will have to accumulate the required number of continuing education hours, or retake and pass the licensing exam.
2. Beneficial effects:
Applicators will be better educated and will be able to conduct their applications effectively and safely.
3. Immediate and long term economic effects:
The adverse and beneficial economic effects are the same for immediate and long term economic effects.

Economic effects of the proposed amendments on the public:

1. Adverse effects:
None
2. Beneficial effects:
Pesticides will be applied safely which will protect the public and the environment.
3. Immediate and long term effects:
The adverse and beneficial effects are the same for immediate and long term economic effects.

Economic cost to the agency for the enforcement of the proposed amendments:

There will be no additional costs to the agency for the enforcement.

Description of any regulations of any other state, local or federal regulation that the proposed

amendments overlap or duplicate:

There are no other state, local, or federal government regulations that these amendments overlap or duplicate.

Fees:

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Paul Iverson /s/
Paul Iverson, Director

7-6-99
Date

**PROPOSED AMENDMENTS TO NAC 555 PERTAINING TO ENFORCEMENT
ACTIONS ON PESTICIDE VIOLATIONS, CIVIL COMPLAINT, CASE REVIEW
COMMITTEE AND NOTICE OF WARNING**

**CHAPTER 555 OF NAC IS HEREBY AMENDED BY ADDING THERETO THE
PROVISION SET FORTH IN SECTION 1 TO SECTION 4, INCLUSIVE OF THIS
REGULATION**

Authority: NAC 555.400

SECTION 1. DEFINITIONS

1. *“Civil complaint defined. “Civil complaint” means a formal notice of violation which is hand delivered or sent by certified mail to a pest control business, principal, operator, agent, certified applicator, unlicensed pest control company or individual stating that a violation of a pesticide statute or regulation has been committed and informing the violator of the enforcement action being taken by the Department.*
2. *“Case review committee” defined. “Case review committee” means a panel of Department employees, which includes the following: Deputy Director of the Department ; Chief of the Plant Industry Division; Regional Manger of the region were the violation occurred and the investigator/case developer.*
3. *“Notice of warning” defined. “Notice of warning” means an enforcement action that takes the form of a formal notice of violation or interview notice, which is hand delivered or sent by certified mail to a pest control business, principal, operator, agent, certified applicator, unlicensed pest control company or individual stating that a violation of a pesticide statute or regulation has been committed and that future violation will result in a more stringent enforcement action taken by the Department.*

Sec. 2 *Enforcement actions on pesticide violations*

1. *A civil complaint shall be issued to the alleged violator of a statute or regulation, containing the following provisions:*
 - a. *An opportunity to agree through a stipulation, settlement agreement, consent order or other disposition to resolve a contested case by informal disposition.*
 - b. *A request an informal case review by the case review committee.*
 - c. *A statement of the enforcement action being taken by the Department which may include a notice of warning, a fine, and/or suspension, modification, revocation of a license or certificate.*
 - d. *A notice of the right to request a hearing in accordance with NAC 561.105*
 - e. *A Notice that a hearing will be held on the violation if the Department does not*

- receive from the alleged violator a request for informal review or hearing.*
2. *A notice of warning shall be the only enforcement action taken against an alleged violator for the first non-serious violation.*

Sec. 3 *Case review committee authority and duties*

1. *Request submission of documents relevant to the case.*
2. *Consider all the facts presented in the case and determine if a violation occurred and if there were any mitigating circumstances.*
3. *Issue a decision upholding the violation and enforcement action, dismissing the violation, or modifying the enforcement action.*

Sec. 4 *Department action to be taken following an informal case review.*

The Department shall hand deliver or send by certified mail notice to the alleged violator of the decision made by the case review committee and of the violators right to request a hearing. If the case was not dismissed, the alleged violator shall be informed that if an informal deposition not been agreed by the parties or the alleged violator has not requested a hearing by the date stated in the notice, The Department will hold a hearing on the case.

Note: For any clarification on these amendments please contact, Robert Gronowski (702) 688-1182 Ext. 239.

NEVADA DEPARTMENT OF AGRICULTURE
350 CAPITOL HILL AVE.
RENO, NV 89502
(775) 668-1180

AUTHORITY: NRS 555.400, NRS 555.470 AND NRS 555.290

PROPOSED AMENDMENTS TO NAC 555.2567 PERTAINING TO THE DEFINITION OF A SERIOUS VIOLATION AND NAC 555.340 PERTAINING TO THE MINIMUM WAITING PERIOD FOR RETESTING BY AN APPLICANT FOR A PEST CONTROL LICENSE.

NAC 555.2567 "Serious violation" defined. "Serious violation" means a violation of NRS 555.2605 to 555.460, inclusive, or any regulation adopted pursuant thereto, which results in actual damage to the health of persons, wildlife, property or the environment, *or conducting pest control with out the appropriate business, principal or agent license issued by the Director.*

NAC 555.340 Examinations: Contents; retesting; letter of eligibility. (NRS 555.400)

1. Each applicant must pass a written examination to demonstrate his knowledge of:
 - (a) Operations for pest control;
 - (b) Pertinent laws and regulations;
 - (c) Safety in handling and dispensing pesticides;
 - (d) Pests;
 - (e) Operation and maintenance of equipment; and
 - (f) Recommended practices for controlling pests.
2. The examination consists of a general examination required for all applicants and a specific examination for each category of pest control in which the applicant has requested to be examined.
3. An applicant for a license as an agent or operator who receives a score on the written examination of 64 to 68 percent, inclusive, may be given an oral examination by the examining officer. If the applicant receives a score of 70 percent or more on the oral examination, the examining officer shall increase the score on the written examination to the minimum passing score.
4. Any applicant may be required to perform a practical demonstration at a time and in a manner

to be specified to show his ability properly to use and apply pesticides.

5. The passing score is 70 percent for each examination.
1. Applicants who fail to pass a section of the examination may be retested upon the expiration of the following minimum waiting periods:
 - (a) For an operator's license, 7 days.
 - (b) For a principal's license, ~~30~~ 10 days.
7. Any applicant who uses an unauthorized aid during an examination may be excluded from the remainder of the examination and may not be allowed to take another examination for at least 6 months.
8. If an applicant passes the examination, a certified letter of eligibility to be licensed will be issued to him at his request. The letter remains valid for 2 calendar years, unless technological changes warrant issuance for a shorter period.

NOTE: For any clarification on the proposed amendments please contact Lee Lawrence at (775) 688-1182, Ext. 252

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PROPOSED AMENDMENTS TO NAC 555.290 PERTAINING TO CONTINUING EDUCATION REQUIREMENTS FOR LICENSED APPLICATORS.

Authority: NRS 555.290 and 555.400

NAC 555.290 Licenses: Miscellaneous requirements and restrictions; amendments; inactive status; *continuing education*.

8. Except as provided in subsection d and e of this section, the Director of the Department of Agriculture shall require as a condition toward the renewal of each applicator's license (Principal, Operator, or Agent), that the licensee has completed courses of continuing education approved by the Director, and that these courses cover the applicator's category(ies) of licensing.

a. In addition to NAC 555.380, each licensed applicator is required to furnish satisfactory proof to the Nevada Department of Agriculture of completion of six (6) continuing education units (CEU's) of which one (1) unit shall be laws, rules and safety. The proof of obtaining the required units of continuing education shall be reported at the time of their annual business license renewal period. The CEU's can be met in one or more of the following manners:

- 1. Attend the Restricted-Use Pesticide Certification Training sponsored by the Nevada Department of Agriculture and/or the University of Nevada Cooperative Extension, and receive a passing score on certification examinations comparable to state licensing categories.*
- 2. Attend pre-approved seminars or meetings and successfully pass an examination demonstrating knowledge of the subject matter presented in the meeting or seminar.*
- 3. Attend other pre-approved courses, such as adult education courses, correspondence courses, and College/University courses for which the licensee has received a passing grade. Principal Operators may earn up to three CEU each year in a pre-approved business management seminar.*
- 4. Attend related continuing education meetings sponsored by the Nevada Department of Agriculture and successfully pass an examination demonstrating knowledge of the subject matter presented at the meeting.*
- 5. View related continuing education training videos and successfully pass an examination demonstrating knowledge of the subject matter contained in the videos. Videos will be available for review at the Nevada Department of Agriculture offices by appointment.*

b. The Director will evaluate continuing education programs, and assign the

- appropriate number of CEU's for each program (or assign CEU's for each section within a program).*
- c. Documentation which demonstrates that each applicator successfully completed the required continuing education instruction shall be submitted to the Department of Agriculture upon request. Each applicator shall be responsible for maintaining their own records for continuing education training. The records must be available for review at the primary place of business.*
 - d. Each applicator (Principal, Operator, or Agent) that successfully completes the current testing requirements and becomes licensed is exempted from the CEU requirement for the remainder of that licensing year.*
 - e. If an applicator does not meet the CEU requirements for the annual business licensing renewal year, he or she may meet the CEU requirements by completing the current testing requirements in all currently licensed categories, no earlier than October 1st preceding the annual business licensing renewal period.*
 - f. Failure of a licensed applicator (Principal, Operator, or Agent) to complete the CEU requirements will result in a non-renewal of their Commercial Pest Control license, until he or she completes the current testing requirements.*
- 9. Any person seeking approval of a continuing education training program must submit, prior to the first day of the training program, a completed form supplied by the Director which provides details about the instructor(s) and an outline of the instruction to be provided.*
 - 10. Once an Application for Continuing Education Activity has been approved, the training provider will supply the Department of Agriculture with the following, within 30 days of the completion of the approved course:
 - 1. An attendance list of all persons successfully completing the course, and*
 - 2. Results of the examinations given during or at the completion of the course.**
 - 11. Unless otherwise indicated on the approved form or unless approval is withdrawn by the director at an earlier date, approval of each activity or course shall be accredited for a one (1) year period, and shall expire the last day of the month in which the activity or course was approved and assigned a course number.*
 - 12. After giving the provider (sponsor or sponsoring agency, company, or organization) a written notice and opportunity to respond, the Director may withdraw approval of activities or courses, when sufficient cause exists. Sufficient cause shall include, but not be limited to, failure to actually meet the standards of approval for the activity or course as outlined in NAC 555.290(9).*
 - 13. Other non-Departmental videotapes, slides or other media presentations will not be approved by the Director unless accompanied by a qualified speaker and course outline, as required in NAC 555.290(8)(b) and NAC 555.290(9).*
 - 14. Each licensed applicator shall keep a certificate of completion for each course he or she attends for two (2) years after the annual business license renewal period and submit*

such records to the Director when requested.

Note: for any clarification on these amendments please contact, Scott Cichowlaz at (702) 486-4690.