

**ADOPTED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R007-07

Effective October 31, 2007

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-3, NRS 554.020 and 554.030.

A REGULATION relating to agriculture; revising provisions governing the quarantines concerning the European corn borer and Japanese beetle; eliminating the quarantine concerning the European pine shoot moth; and providing other matters properly relating thereto.

Section 1. NAC 554.200 is hereby amended to read as follows:

554.200 1. A host or possible carrier of the Japanese beetle may enter this State from an area under quarantine against the Japanese beetle if it is accompanied by a certificate issued by an authorized agricultural official of its state of origin certifying that the host or possible carrier was:

(a) Grown in accordance with methods and procedures approved by the Director pursuant to NAC 554.211; or

(b) Treated for the Japanese beetle before shipment into this State in accordance with a method of treatment approved by the Director pursuant to NAC 554.212, 554.213, 554.214 or 554.215. The host or possible carrier must also be accompanied by a certificate issued by an authorized phytosanitary official of its state of origin:

(1) Certifying that the treatment was performed:

(I) Under the direct supervision of a state phytosanitary official; or

(II) Under a federal compliance agreement that requires the treatment to be monitored by a state phytosanitary official; and

(2) ~~Includes~~ **Including** a declaration that the plants covered by the certificate have been treated to control *Popillia japonica* according to the criteria for shipment to category 1 states as provided in the United States Domestic Japanese Beetle Harmonization Plan.

2. A copy of a certificate issued by a state phytosanitary official for the purposes of paragraph (b) of subsection 1 must be provided to the Department before the shipment's entry into the State. The copy may be provided:

(a) By facsimile machine at (775) 688-1178; or

(b) By electronic mail at ~~mailto:rgronow@govmail.state.nv.us-~~ ndoa@agri.state.nv.us.

Sec. 2. NAC 554.250 is hereby amended to read as follows:

554.250 All states and districts of the United States except Alaska, Arizona, *California*, Hawaii, Idaho, ~~Nevada,~~ New Mexico, Oregon, Utah and Washington are under quarantine.

Sec. 3. NAC 554.590, 554.600, 554.610, 554.620, 554.630, 554.640, 554.645, 554.650, 554.660, 554.670, 554.680 and 554.690 are hereby repealed.

TEXT OF REPEALED SECTIONS

554.590 Establishment of quarantine. (NRS 554.020, 554.030) To prevent the introduction into Nevada of the European pine shoot moth (*Rhyacionia buoliana*), the Director

hereby establishes a quarantine upon certain commodities which have originated in infested areas and may be carriers of the pest.

554.600 Areas under quarantine. (NRS 554.020, 554.030) All states and districts of the United States, except Alaska and Hawaii, are under quarantine.

554.610 Infested areas. (NRS 554.020, 554.030) The states of Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Washington, West Virginia and Wisconsin are infested areas.

554.620 Commodities covered by quarantine. (NRS 554.020, 554.030) The following commodities are subject to restrictions as hosts or possible carriers of the European pine shoot moth:

1. All species and varieties of pine (*Pinus* spp.) trees (with or without roots); and
2. Any branches or twigs of pine bearing terminal buds, needles or shoots.

554.630 Certificate for entry. (NRS 554.020, 554.030)

1. Commodities which are covered by the quarantine are prohibited from entering this State from the area under quarantine unless each lot or shipment is accompanied by a certificate signed by or bearing a facsimile signature of the authorized agricultural inspection official of the state of origin.

2. The certificate must state that:

(a) The restricted commodities originate in a noninfested state, county or parish and are free of European pine shoot moth;

(b) The restricted commodities originate in an infested state, county or parish and are shipped from a growing site or growing area that has been trapped for European pine shoot moth by the

authorized agricultural official of the infested state, county or parish in accordance with NAC 554.645 and found to be free of European pine shoot moth; or

(c) The restricted commodities have been treated under official supervision before shipment in a manner prescribed by NAC 554.650 to 554.690, inclusive, or in a manner approved by the Director.

3. A certificate is not required for pine trees, branches or twigs which are cut for ornamental purposes from October 20 to December 31 of any year.

554.640 Special permits. (NRS 554.020, 554.030) The Director may issue special permits to the State Forester Firewarden or the federal forest service authorizing the entry of seedling trees from the infested area without treatment for reforestation or scientific research if such trees have been grown in a greenhouse under official supervision or otherwise produced and subsequently handled under conditions which are satisfactory to the Director so as to preclude infestation or exposure to infestation by the European pine shoot moth.

554.645 Use of traps. (NRS 554.020, 554.030)

1. Each trap used for the European pine shoot moth must be prepared using the pheromone “Trans-9-DoDecenyl Acetate” in accordance with any instructions provided for the trap. Such a trap must be used for each 4 acres of land containing pine stock. Not less than two of those traps must be used regardless of the size of the area trapped. Each trap must be maintained in operating condition from May 15 to July 31, inclusive, of each year.

2. Each plan for trapping the European pine shoot moth must be carried out under the supervision of the agricultural agency of the state of origin. Each trap must be read by an entomologist who:

(a) Is employed or approved by that agricultural agency; and

(b) Has knowledge of the adult stage of the European pine shoot moth.

554.650 Requirements for fumigation chamber. (NRS 554.020, 554.030)

1. All methyl bromide fumigation of pine stock must be performed in a chamber or gastight enclosure approved by the proper plant quarantine official of the authorized agricultural inspection agency as being properly constructed, equipped and operated to assure the correct dosage, temperature control and uniform distribution of the fumigant.

2. After an initial introduction of 4 pounds per 1,000 cubic feet, the chamber must be capable of maintaining a gas concentration of not less than 51 ounces per 1,000 cubic feet at the termination of the recommended fumigation period.

3. All chambers and gastight enclosures used for the fumigation of pine stock with methyl bromide must be tested at regular intervals, at least annually, by the certifying agency.

554.660 Arrangement of commodities in fumigation chamber. (NRS 554.020, 554.030)

1. Not over two-thirds of the chamber may be occupied by the commodity.

2. Free air space must be left between the top, bottom and sides of the chamber.

3. If a load is to be stacked, a minimum of 5 inches of air space must be provided between the layers. With the exception of baled stock, the space between the top of the material and the top of the chamber must be at least 12 inches. The space between the side of the material and the side of the chamber and between rows must be at least 6 inches. For baled stock, these minimum distances must be doubled.

554.670 Volatilizers. (NRS 554.020, 554.030)

1. Gas used in fumigation must be volatilized.

2. A volatilizer must consist of 25 feet of 1/4-inch or 3/8-inch coiled, copper tubing immersed in a container of hot water maintained at a minimum temperature of 180 degrees Fahrenheit.

3. The volatilizer must be in the introduction system between the methyl bromide dispenser and the chamber.

554.680 Schedule of fumigation. (NRS 554.020, 554.030)

1. The treatment consists of methyl bromide fumigation under normal atmospheric pressure.
2. Methyl bromide must be applied at the rate of 4 pounds for each 1,000 cubic feet of space in the chamber for the following periods according to the temperature in the chamber:

Temperature in the chamber (°F)	Period of treatment	
	Hours	Minutes
45 - 49	3	28
50 - 54	3	8
55 - 59	2	52
60 - 64	2	38
65 - 69	2	22
70 - 74	2	9

Temperatures above 65 degrees Fahrenheit may result in injury to stock.

554.690 Contents of certificates. (NRS 554.020, 554.030) Certificates must affirm that at least 4 pounds of methyl bromide was applied per 1,000 cubic feet of space in a chamber and must set forth the temperature in the chamber and the period of exposure.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R007-07

The State Department of Agriculture adopted regulations assigned LCB File No. R007-07 which pertain to chapter 554 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Regarding workshops and hearings held to adopt regulations (R007-07) repealing the quarantine on European Pine Shoot Moth NAC 554.590 through 554.690 and other administrative changes.

1. A public workshop was held on September 4, 2007 for European Pine Shoot Moth regulation changes in Reno, Nevada at the Nevada Department of Agriculture, 350 Capitol Hill Avenue, teleconferenced to Las Vegas, Nevada, Nevada Department of Agriculture, 2300 McLeod Street.
2. A public hearing was held on September 5, 2007 for European Pine Shoot Moth regulation changes in Reno, Nevada at the Nevada Department of Agriculture, 350 Capitol Hill Avenue, teleconferenced to Las Vegas, Nevada, Nevada Department of Agriculture, 2300 McLeod Street.

Notice of workshop and notice of hearing was posted at all six Department offices, the Nevada State Library in Carson City, Nevada, and all Nevada county libraries. Notices were also sent by email to 33 parties who were interested in any quarantine changes relating to the nursery industry. Copies could be requested from the Nevada Department of Agriculture, Division of Plant Industry by writing to 350 Capitol Hill Avenue, Reno, Nevada 89502, calling 775-688-1182, contacting all other Department offices, the Nevada State Library in Carson City, and all Nevada county libraries. Notification was sent to all persons requesting to be notified of the amendment on December 22, 2006.

3. Workshop held September 4, 2007 Reno & Las Vegas
Number Attended: 1 in Las Vegas (board member Jim Johnson)
Number Testified: 0
Number of Written Statements: 0

Summary of comments or written statements: No comments or written statements given.

4. Hearing held January 29, 2007 Reno & Las Vegas
Number Attended: 0
Number Testified: 0
Number of written statements: 0
Summary of comments: No comments given.

5. Comments were solicited from businesses and the public, by posting in public locations and through direct mail and email notices as outlined in #2 above. A copy of comments and oral

and written testimony may be obtained by calling the Nevada Department of Agriculture office, 775-688-1180, ext 272.

6. The Nevada Board of Agriculture at their September 21, 2007 meeting, adopted the amendments LCB File #R007-07 without changes as follows:

a) Rescind European pine shoot moth quarantine NAC 554.590 through 554.690;

b) NAC 554.250 European Corn Borer Quarantine - Areas under quarantine. Remove Nevada and add California. California was inadvertently omitted from this section and Nevada should not be listed in this section.

c) NAC 54.200 2 (b) Japanese Beetle Quarantine - Certification of commodities entering Nevada, replace the listed email address “rgronow@govmail.state.nv.us” with “ndoa@agri.state.nv.us”. The listed email address is no longer valid, the new address is valid.

LCB file No. R007-07 was adopted without change because there was no opposition.

7. The economic effects of both proposed amendments on the businesses that it is to regulate include:

a. Adverse effects: none

b. Beneficial effects: Pine tree stock may be more available to licensed dealers due to the dropping of the quarantine entry requirements

c. Immediate and long-term economic effects: same

8. The economic effects of the proposed amendments on the public include:

a. Adverse effects: none

b. Beneficial effects: none

c. Immediate and long-term economic effects: same

9. Economic cost to the agency for the enforcement of the regulation: There will not be any additional cost to the agency to enforce the amendments when adopted.

10. There is no other state or federal agency regulations that the adopted amendments overlap or duplicate.

11. The proposed amendments do not include any provisions more stringent than any federal regulation with the same activity.