

**LCB File No. R007-07**

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

(This regulation was previously adopted as T027-06)

**NOTICE OF WORKSHOP AND HEARINGS  
OF INTENT TO ADOPT REGULATIONS**

Details of the workshops and hearings appear below:

**WORKSHOPS AND HEARINGS      REVISED DATES & TIMES**

**Workshop:      Tuesday, September 4, 2007 at 2:00 p.m.**

**Hearing:      Wednesday, September 5, 2007 at 10:00 a.m.**

**Locations:      Nevada Department of Agriculture Office, Reno  
350 Capitol Hill Avenue  
Reno NV 89502**

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

Written comments and testimony may be submitted prior to the hearing date and will be included with any testimony presented at the hearing. All oral and written testimony will be in the record of the hearing.

**PROPOSED AMENDMENT TO NAC 554 (R007-07)**

Need and Purpose of the proposed amendments: To make the temporary regulation which eliminates the European Pine Shoot Moth Quarantine in Nevada a permanent regulation.

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

1. Adverse effect: Commercial shipments of pines from Nevada to states with pine shoot moth quarantines will have to be certified free of pine shoot moth.
2. Beneficial effects: The elimination of the quarantine will facilitate the entry of pine trees into Nevada.
3. Immediate and long term effect: Same.

Economic effects of the proposed amendments on the public:

1. Adverse effects: None

- 2. Beneficial effects: None
- 3. Immediate and long-term effects: Same.

There will be no additional costs to the Department for enforcement of the amendments.

This regulation does not overlap or duplicate any other state, local or federal regulation.

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.

Nevada Department of Agriculture  
350 Capitol Hill Avenue  
Reno, NV 89502

Nevada Department of Agriculture  
2150 Frazer Street  
Sparks, NV 89431

Nevada Department of Agriculture  
1550 S. Wells Avenue  
Reno, NV 89502

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

Nevada Department of Agriculture  
1351 Elm Street  
Elko, NV 89801

Nevada Department of Agriculture  
2300 McLeod  
Las Vegas, NV 89104

Churchill County Library 553 South Maine Street Fallon, NV 89406	Las Vegas – Clark County Library 833 Las Vegas Blvd North Las Vegas, NV 89101	Elko County Library 720 Court Street Elko, NV 89801
Esmeralda County Library P.O. Box 430 Goldfield, NV 89013-0430	Eureka Branch Library 10190 Monroe Street Eureka, NV 89316-0293	Humboldt County Library 85 East 5 <sup>th</sup> Street Winnemucca, NV 89445
Lincoln County Library 93 Main Street Pioche, NV 89043-0330	Lyon County Library 20 Nevin Way Yerington, NV 89447	Mineral County Library First & A Street Hawthorne, NV 89415-1390
Goldfield Public Library Forth & Crook Street Goldfield, NV 89013-0430	Tonopah Public Library 171 Central Street Tonopah, NV 89049-0449	Pershing County Library 1125 Central Avenue Lovelock, NV 89419-0781

Storey County Library 95 South R Street Virginia City, NV 89440-0014	Washoe County Library 301 South Center Reno, NV 89505-2151	White Pine County Library 950 Campton Street Ely, NV 89301
Battle Mountain Branch Library Battle Mountain, NV 89820-0141	Carson City Library 900 N. Roop Street Carson City, NV 89701	Douglas County Library 1625 Library Lane Minden, NV 89423-0337
State Library 100 North Stewart Street Carson City, NV 89701-4285	Smith Valley Library 22 Day Lane Smith, NV 89430	

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 Ed Foster at the Nevada Department of Agriculture, (775) 688-1182 Ext. 272 as soon as possible.

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

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 adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

**LCB File No. R007-07**

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

(This regulation was previously adopted as T027-06)

(This version replaces the initial agency draft posted on 6/12/07)

**PROPOSED AMENDMENT TO NAC 554**

Need and Purpose of the proposed amendments: Eliminate the European Pine Shoot Moth Quarantine in Nevada.

The proposed amendments follow. The proposed changes are in *bold italics*. The text to be deleted is ~~crossed out~~.

**EXTERIOR QUARANTINE AGAINST EUROPEAN PINE SHOOT MOTH**

**General Provisions**

~~[NAC 554.590 Establishment of quarantine. 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.~~

~~—NAC 554.600 Areas under quarantine. All states and districts of the United States, except Alaska and Hawaii, are under quarantine.~~

~~—NAC 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.~~

~~—NAC 554.620 Commodities covered by quarantine. 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.~~

~~—NAC 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.~~

~~—NAC 554.640 Special permits. 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.~~

~~—NAC 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.~~

#### Treatment Procedures

~~—NAC 554.650 Requirements for fumigation chamber.~~

~~—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.~~

~~—NAC 554.660 Arrangement of commodities in fumigation chamber.~~

~~—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.~~

~~—NAC 554.670 Volatilizers.~~

~~—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°F.~~

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

~~—NAC 554.680 Schedule of fumigation.~~

~~—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
<del>45—49</del>	<del>3</del>	<del>28</del>
<del>50—54</del>	<del>3</del>	<del>8</del>
<del>55—59</del>	<del>2</del>	<del>52</del>
<del>60—64</del>	<del>2</del>	<del>38</del>
<del>65—69</del>	<del>2</del>	<del>22</del>
<del>70—74</del>	<del>2</del>	<del>9</del>

~~-~~

~~Temperatures above 65°F may result in injury to stock.~~

~~—NAC 554.690 Contents of certificates. 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.]~~

a) 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.

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

**STATE DEPARTMENT OF AGRICULTURE  
SMALL BUSINESS IMPACT DISCLOSES PROCESS  
PURSUANT TO 233B “Nevada Administrative Procedures Act”**

The purpose of this Small Business Impact Form is to provide a framework pursuant to NRS 233B.0608 to determine where a small business impact statement is required for submittal of a proposed regulation before the Nevada Department of Agriculture. If questions one (1) and two (2) are answered *No*, then a small business impact statement is not required. If question one (1) or question two (2) is answered with a *YES*, then a small business impact statement is required prior to conducting a public workshop(s) by the Department. (This form must be submitted with the proposed regulation when submitted for drafting by LCB and adoption by the Nevada State Board of Agriculture.)

Proposed regulation: NAC 554, pertaining to European Pine Shoot Moth Quarantine

Part 1

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? No.
2. Does this proposed regulation restrict the formation, operation or expansion of a small business? No.

**Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).**