

LCB File No. R146-08

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

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

Workshop Notice: Thursday, July 10, 2008, 3:00 P.M.

Hearing Notice: Friday, July 11, 2008, 3:00 P.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 NAC 555.670.9

Need and Purpose of the proposed amendments: We have no penalty under our current certified applicators regulations for persons caught using an unauthorized testing aid while taking certification examinations.

NAC 555.670 Examinations for certification of nonprimary principal commercial and private applicators: General and specific; written, oral and practical; passing score; requalification. (NRS 555.355, 555.400)

1. The examination for the issuance of a certificate pursuant to NAC 555.655 will consist of a general examination which will be required of each applicant and a specific examination for each category in which the applicant has requested to be examined.

2. The Director may require the applicant to meet special qualifications of competency which relate to the special needs of a given locality regarding the use or application of a specific restricted-use pesticide. The special qualifications of competency may include written examinations as required by the Director.

3. In addition to the written examination, the applicant for a certificate for private applicator may be given an oral examination. The examining officer may add to or subtract from the score on the written test a maximum of 5 grade points based on the oral examination.

4. A private applicator may request an oral examination in lieu of a written examination. If the examining officer determines that the request is justified, he may give the applicant an oral

examination. No grade points may be added to or subtracted from an applicant's score on the oral examination.

5. Any applicant may be required to perform a practical demonstration, at a time and in a manner specified by the examining officer, to show his ability to apply or supervise the application of restricted-use pesticides.

6. The passing score for each examination is 60 percent.

7. Any applicant who fails to pass the general examination or any specific examination may be retested upon expiration of a waiting period of 5 working days, unless the examining officer waives the waiting period.

8. Every person to whom a certificate has been issued by the Director must requalify by examination every 4 years, unless the Director determines that a shorter interval is justified because of a change in the technology of pesticides.

9. Any applicant who uses an unauthorized aid during an examination must be excluded from the remainder of the examination and must not be allowed to take another examination for at least 6 months.

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

1. Adverse effect: Some applicators are required to pass an examination to qualify for certain employment and to get pay upgrades. This may affect an applicant who is caught with an unauthorized testing aid.
2. Beneficial effects: This change will deter cheating on certification exams administered by the Department.
3. Immediate and long term effect: Same as #1 and #2 above.

Economic effects of the proposed amendments on the public:

1. Adverse effects: None
 2. Beneficial effects: This provision will help assure that certified applicators are competent when applying chemicals.
 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. The proposed amendments do not include any provisions more stringent than any federal regulation with the same activity. Federal regulations authorize the Department to give certification examinations. It is left up to us on how testing will be administered and testing procedures enforced.

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
2300 McLeod
Las Vegas, NV 89104

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

Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801

Churchill County Library 553 South Maine Street Fallon, NV 89406	Las Vegas – Clark County Library 833 Las Vegas Boulevard 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 P.O. Box 293 10190 Monroe Street Eureka, NV 89316-0293	Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445
Lincoln County Library P.O. Box 330 93 Main Street Pioche, NV 89043-0330	Lyon County Library 20 Nevin Way Yerington, NV 89447	Mineral County Library P.O. Box 1390 (First & A Street) Hawthorne, NV 89415-1390
Goldfield Public Library P.O. Box 430 (Forth & Crook Street) Goldfield, NV 89013-0430	Tonopah Public Library P.O. Box 449 171 Central Street Tonopah, NV 89049-0449	Pershing County Library P.O. Box 781 1125 Central Avenue Lovelock, NV 89419-0781
Storey County Library P.O. Box 14 95 South R Street Virginia City, NV 89440-0014	Washoe County Library P.O. Box 2151 301 South Center Reno, NV 89505-2151	White Pine County Library 950 Campton Street Ely, NV 89301
Battle Mountain Branch Library P.O. Box 141 Battle Mountain, NV 89820-0141	Carson City Library 900 N. Roop Street Carson City, NV 89701	Douglas County Library P.O. Box 337 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	Las Vegas Review Journal Ed Vogel/Capital Bureau 102 N. Curry Street Carson City, NV 89703
Nevada Farm Bureau Federation 2165 Green Vista Drive, Suite 205 Sparks, NV 89431		

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 Charles Moses at the Nevada Department of Agriculture, (775) 688-1182 Ext. 251 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.

Tony Lesperance, Director

Date

**NEVADA 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 555.670.9

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).