

PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

LCB File No. R154-17

PLANT INDUSTRY DIVISION

NOTICE OF INTENT TO ACT UPON A REGULATION And NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

The Nevada Department of Agriculture will hold a public hearing on Wednesday, August 29, 2018 at 8:30am at Agriculture Headquarters, 405 South 21st Street, Sparks, NV 89431; Phone: (775) 353-3601. The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapter 555, of the Nevada Administrative Code. The proposal has been designated as File No. R154-17 by the Nevada Legislative Counsel Bureau.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 555; a *regulation relating to pesticides; setting forth the categories for the licensing of government applicators; setting forth certain requirements for the examination of an applicant for the issuance of a license as a government applicator; authorizing the Director of the State Department of Agriculture to issue certain types of licenses to a government applicator; setting forth the information which must be included in an application for a license as a government applicator; setting forth the circumstances under which a government applicator may renew his or her license; requiring the Director to charge and collect certain fees; setting forth certain duties of each government applicator and unlicensed employee while engaged in the application of pesticides; prohibiting an unlicensed employee who engages in pest control from applying restricted-use pesticides under certain circumstances; requiring all service containers and certain other containers to bear certain labels; setting forth certain requirements for each application for a governmental agency certificate; requiring certain government applicators and unlicensed employees to create, maintain and submit certain records and reports to the Director concerning treatments using a pesticide; revising the fields for the licensing of pest control personnel; revising the information which must be included in an application for a business license; setting forth the date of expiration of a business license; setting forth provisions governing the information which must be provided in an application to perform work as an applicator and an initial license as an applicator; increasing certain fees that an applicant for a license must pay to the Director; revising certain fines that the Director may assess against a person; revising the authorized fields of a licensed primary principal commercial applicator; deleting a governmental agency from those fields; revising the urban and structural category of a licensed primary principal applicator; repealing certain definitions relating to pesticides; and providing other matters properly relating thereto.*

1. The need for and the purpose of the proposed regulation or amendment
Adopting code pursuant to Ab 32 of the 2017 legislative session.
2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.
These regulations address the licensing of government employees engaging in pest control; provide for the licensing of golf course and sports complex personnel engaging in pest control; adjusts certain fees and fines on the pest control industry; reduces labeling requirements for dilute pesticide containers during transport and storage; and provides clarification language regarding restricted use pesticide (RUP) certification renewals.
3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:
The estimated cost to industry and government agencies is expected to be minimal. Direct economic effects are as follows: Resulting from the passage of AB-32 in the 2017 legislative session, government employees conducting pest control will have to obtain a pest control license or be supervised by a licensed government employee pursuant to the restrictions outlined in AB-32. Many government employees currently conducting pest control already have restricted use pesticide (RUP) certification. The fees for licensing will be the same as for RUP certification so the new structure will have limited impact.
 - a) Both adverse and beneficial effects;

Adverse economic effects of the regulation on the pest control industry is expected to be minimal to none. The increase in commercial applicator license fees are offset by a decrease in commercial agent licensing fees. Fees will continue to be annual and still nominal. Government licensing fees and duration are equivalent to restricted use pesticide certification. Only government agencies that did not provide training previously to their employees prior to this regulation will see a modest increase when their employees must test and become licensed. The changes in service container labeling requirements should be beneficial to the applicators by increasing compliance assurance to state regulations, and to the public and environment by reducing the potential for misapplication of product.

b) Both immediate and long-term effects

Immediate effects of government licensing will result in an increase in expenditures related to the testing and licensing process. The long-term effect will be government workers who use pesticides as part of their employment obligations will be better trained which will benefit themselves, their department, the public and the environment. There should be no substantial immediate or long-term effects of restructuring the commercial license fees. There has been a grace period where government applicators could exchange their current certifications for the new government licenses at no cost or additional requirements. The proposed labeling requirements, both near and long-term should greatly benefit workers, the public, and the environment by increasing formulation compliance and reducing the potential for misapplications of product.

4. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Department is expected to be minimal. The infrastructure is already in place to implement these revisions.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed revisions do not duplicate or conflict with federal regulations

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

N/A

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed legislation establishes fees for testing and licensing of government applicators that are equivalent in amount and duration to the existing RUP certification. Government agencies that have not in the past certified their workers who engaged in pest control will now have to have their employees tested and licensed. The increase in annual commercial applicator licensing fees will be offset by reductions in the fee for annual agent licenses. Companies that do not employ agents will thus see an increase in licensing fees while those that do will be revenue neutral or potentially see a reduction in overall annual licensing fees.

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Staff _____ program and administration division determined that _____ describe effect_____.

AB 32 and these regulations are the result of a public workshop and meetings with government entities and members of the pest control industry to address public and environmental safety issues and to clarify existing language in code. The proposed regulations were amended several times to accommodate the concerns of government entities engaging in pest control and commercial pest control companies.

The LCB approved revision can be found on the Nevada Department of Agriculture website at www.agri.nv.gov.

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the address below.

Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
ATTN: Megan Zich
(775) 353-3670
Mzich@agri.nv.gov

Written submissions must be received by the Nevada Department of Agriculture on or before Friday, August 3, 2018. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Agriculture may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431

Nevada Department of Agriculture
2300 E. St Louis Avenue
Las Vegas, NV 89104

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89445

And in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

NRS 233B.064(2) provides: Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

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

Clark County Library, 833 Las Vegas Boulevard North, Las Vegas, NV 89101
Douglas County Library, 1625 Library Lane, Minden, NV 89423
Elko County Library, 720 Court Street, Elko, NV 89801
Esmeralda County Library, Corner of Crook & 4th Streets, Goldfield, NV 89013
Eureka Branch Library, 10190 Monroe Street, P.O. Box 293, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445
Lander County Library, 625 South Broad Street, Battle Mountain, NV 89820
Lincoln County Library, 63 Main Street, Pioche, NV 89043
Lyon County Library, 20 Nevin Way, Yerington, NV 89447
Mineral County Public Library, 110 1st Street, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
Storey County Public Library, 95 South R Street, Virginia City, NV 89440
Tonopah Public Library, 167 Central Street, Tonopah, NV 89049
Washoe County Library, 301 South Center Street, Reno, NV 89501
White Pine County Library, 950 Campton Street, Ely, NV 89301
Nevada State Legislature Website: www.leg.state.nv.us

BRIAN SANDOVAL
Governor

STATE OF NEVADA

JAMES R. BARBEE
Director

Las Vegas Office:
2300 E. St Louis Avenue
Las Vegas NV 89104-4314
(702) 668-4590
Fax (702) 668-456



Elko Office:
4780 E. Idaho Street
Elko NV 89801-4672
(775) 738-8076
Fax (775) 738-2639

MEMORANDUM

TO: Nevada Department of Agriculture Offices
State Capitol Building
State Library and Archives
Dennis Belcourt – AG's Office

FROM: Jennifer Ott, Division Administrator – 775-353-3729
JOtt@agri.nv.gov Fax Number 775-353-3661

SUBJECT: Posting of Agenda for Hearing on Notice of Intent to Act Upon a Regulation Scheduled for Wednesday, August 29, 2018 at 8:30AM

DATE: July 11, 2018

I have attached a copy of the agenda for the Nevada Department of Agriculture Hearing for Notice of Intent to Act Upon a Regulation that will be held on Wednesday, August 29, 2018 at 8:30AM.

Please post the agenda for R154-17 before 9:00am on Tuesday, July 17, 2018 per *open meeting law* and return this memo to my attention, signed with the date of posting, as I need this for our files.

We appreciate your assistance in this posting.

Thank you.

Distribution: State Capitol Building
State Library and Archives
Dennis Belcourt – AG's Office
Sparks Office – Nevada Department of Agriculture
Las Vegas Office – Nevada Department of Agriculture
Elko Office – Nevada Department of Agriculture
Consumer Equitability – Department of Agriculture

OFFICE: _____

SIGNATURE: _____

DATE & TIME OF POST: _____

MEETING NOTICE AND AGENDA

Public Hearing

Notice of Intent to Act Upon a Regulation

LOCATION: Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
Phone: 775-353-3601

Video-conference to: Nevada Department of Agriculture
2300 E. St Louis Avenue
Las Vegas, NV 89104
Phone: 702-668-4590

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801
Phone: 775-738-8076

DATE AND TIME: Wednesday, August 29, 2018 at 8:30AM

Public comment will be taken on the intent to adopt a regulation. The purpose is to solicit public comments from interested persons on the following proposed regulation: NAC 555; *a regulation relating to pesticides; setting forth the categories for the licensing of government applicators; setting forth certain requirements for the examination of an applicant for the issuance of a license as a government applicator; authorizing the Director of the State Department of Agriculture to issue certain types of licenses to a government applicator; setting forth the information which must be included in an application for a license as a government applicator; setting forth the circumstances under which a government applicator may renew his or her license; requiring the Director to charge and collect certain fees; setting forth certain duties of each government applicator and unlicensed employee while engaged in the application of pesticides; prohibiting an unlicensed employee who engages in pest control from applying restricted-use pesticides under certain circumstances; requiring all service containers and certain other containers to bear certain labels; setting forth certain requirements for each application for a governmental agency certificate; requiring certain government applicators and unlicensed employees to create, maintain and submit certain records and reports to the Director concerning treatments using a pesticide; revising the fields for the licensing of pest control personnel; revising the information which must be included in an application for a business license; setting forth the date of expiration of a business license; setting forth provisions governing the information which must be provided in an application to perform work as an applicator and an initial license as an applicator; increasing certain fees that an applicant for a license must pay to the Director; revising certain fines that the Director may assess against a person; revising the authorized fields of a licensed primary principal commercial applicator; deleting a governmental agency from those fields; revising the urban and structural category of a licensed primary principal applicator; repealing certain definitions relating to pesticides; and providing other matters properly relating thereto.*

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, please notify The Dept. of Agriculture in writing at 405 S. 21st Street, Sparks, NV 89431 or contact the Executive Assistant at 775-353-3619.

Copies of both the State of Nevada Board of Agriculture Agenda with supporting documentation and Open Meeting Minutes are available, at no charge, for inspection at the Dept. of Agriculture 405 S. 21st Street, Sparks, NV, 89431 or Dept. of Agriculture website at www.agri.nv.gov. For additional information contact Jerri Conrad at 775-353-3619.

Notice of this meeting was posted on or before 9:00 a.m. on the third working day before the meeting at the following locations: Nevada Department of Agriculture, 405 S. 21st Street, Sparks, NV 89431, Nevada Department of Agriculture, 2150 Frazer Ave., Sparks, NV 89431, Nevada Department of Agriculture, 4780 E. Idaho Street, Elko, NV 89801, Nevada Department of Agriculture, 2300 E. St Louis Avenue, Las Vegas, NV 89104, State of Nevada Capital Building, Carson City NV, State Library and Archives, Carson City.