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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

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PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

NOTICE OF INTENT TO ACT UPON A REGULATION
AND
HEARING AGENDA

Notice of Hearing for the Adoption of Permanent Regulations Nevada Administrative Code chapter
554

LCB File No. R130-20

The Nevada Department of Agriculture (NDA) will hold a public hearing virtually at 10am on June 7, 2022. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to chapter 554 of the Nevada Administrative Code (NAC).

Date: Tuesday, June 7, 2022
Time: 10am
Location: This meeting will be held Webex

Remote Meeting Information*:

To join the meeting virtually, click on the URL and enter the meeting number and password when prompted:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m0557b6da88d97c9c89efd926fa3d2fdb>

Meeting Number: 2558 176 6684
Access code: hMvRXjNs555

To join by telephone, call the phone-in number and enter the access code when prompted.

Phone-in Access #: 1-408-418-9388
Access Code: 2558 176 6684

***Per 2021 AB253 ALL PERSONS WISHING TO ATTEND THE MEETING MUST ATTEND VIA (insert platform, WEBEX/ZOOM) OR TELEPHONICALLY.**

INFORMATIONAL STATEMENTS

Pursuant to [NRS 233B.0603](#), the NDA is providing the following statements pertaining to the public hearing on proposed changes to Chapter 554 of NAC.

- The need for and the purpose of the proposed regulation or amendment.

Firewood is a primary source of pest introduction to agriculture, forestlands, in Nevada . Harmful pests are difficult to detect in firewood and are frequently present, particularly when sourced in areas with established pests of concern (i.e. quarantine areas). The frequent and expansive movement of firewood and associated pest introduction is a nationwide issue, however due to limited resources and varying circumstances, the regulation and enforcement of firewood movement has been left to the responsibility of individual states. It is critical that Nevada establish regulations to prevent the movement of firewood from quarantined areas in the interest of protecting vulnerable forestlands, the food supply, and land values. The introduction of harmful pests to forestlands is of particular concern due to the recent devastation experienced from wildfires, making forestlands that much more susceptible to pest establishment and health decline. It is also critical to note that neighboring states have established these requirements and a lack of regulation in Nevada creates an easy entry point for non-compliant and infested wood.

The proposed fee increase for garlic and onion inspections is being requested to meet the staffing and supply needs in performing program requirements including field inspection, crop sample preparations, and sample analyses. These inspections are time sensitive and require multiple staff to inspect thousands of acres of garlic and onions shortly before harvest to ensure they are not compromised by a devastating and highly contagious fungus (white rot) among other harmful pests. In order to meet these program requirements, fees need to be increased to meet staffing requirements in addition to training needs.

- If the regulation is a temporary one, either the text of the proposed rule or a description of the substance of the rule and the subjects and issues involved. If the regulation is a permanent one, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

The regulation text can be found through the following:

- Nevada Department of Agriculture website at agri.nv.gov
 - Nevada Public Notice website at <https://notice.nv.gov/>
 - Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>
- The estimated economic effect of the regulation on the business which it is to regulate and on the public.

- Adverse economic effect on regulated business

For the movement of firewood, the objective is to only limit the transport from areas of significant pest concern (i.e., from quarantined regions). The labeling provisions will allow tracking including the origin and any treatments the product has undergone to allow transport or sale. Nevada-sourced firewood would only be prohibited for sale and transport if it has not undergone treatment and originated or was sourced from an area of quarantine. Based on the responses received from the business impact assessment survey, it was concluded that the impacts to firewood and garlic/onion businesses would be less than \$5,000 annually. Identifying critical pathways for the introduction of pests is critical to various industries in Nevada, which include recreation, agriculture, forestry, and landscaping. The distribution of firewood is a well-known source of pest introduction and preventing movement from quarantined areas and requiring labeling will help protect these industries. The proposed fee increase for the garlic and onion inspection program is needed to meet the staffing and supply needs in performing program requirements, including field inspections, crop sample preparations, and sample analyses, however it will result in an increase producer costs.
- Beneficial economic effect on regulated business

These regulations will protect commodities from the introduction of harmful pests that would reduce the value and availability of products. Further, by preventing the introduction of harmful pests the state will be protected from quarantines declared by other states, reducing export and product values. The increase in fees for garlic and onions will allow for improved services in having staff and resources, particularly vehicles, readily available to perform time sensitive inspections.
- Immediate economic effect on regulated business

For the movement of firewood, the objective is to only limit the transport from areas of significant pest concern (i.e., from quarantined regions). The labeling provisions will allow the origin to be confirmed and wood can also undergo treatment to allow for continued transport. Nevada-sourced firewood would only be prohibited for sale and transport if it has not undergone treatment and originated or was sourced from an area of quarantine. Survey results reported that the economic impacts anticipated from the proposed regulations would be less \$5,000 annually.
- Adverse economic effect on the public

The proposed regulation may limit firewood access from areas previously sourced by the public in order to prevent the introduction of harmful species from quarantined areas. They would need to source wood from non-quarantined areas or have it treated.
- Beneficial economic effect on the public

These regulations will protect commodities from the introduction of harmful pests that would reduce the value and availability of products. Further, by preventing the introduction of harmful pests the state will be protected from quarantines declared by other states, reducing export and product values. The increase in fees for garlic and onions will allow for improved services in having staff and resources, particularly vehicles, readily available to perform time sensitive inspections.

- Immediate economic effect on the public
 - There was no economic impact reported during the workshop from the public. The proposed regulation may limit firewood access from areas previously sourced by the public in order to prevent the introduction of harmful species from quarantined areas. They would need to source wood from non-quarantined areas or have it treated.
- Long-term economic effect on the public
 - There was no economic impact reported during the workshop from the public. The proposed regulation may limit firewood access from areas previously sourced by the public in order to prevent the introduction of harmful species from quarantined areas. They would need to source wood from non-quarantined areas or have it treated.
- The estimated cost to the agency for enforcement of the proposed regulation.

Firewood quarantine and labeling enforcement would be completed through education and outreach to retailers, including random inspections. Enforcement would also be completed in coordination with state and federal partners as firewood is identified in recreational areas. At this time, additional staff are not needed since federal resources currently provide support for education and outreach. There is no additional cost pertaining to the increase in garlic and onion inspection fees.

- The methods used by the agency in determining the impact on a small business.

A survey was conducted of businesses that would potentially be affected by the regulation. The electronic survey was emailed to the NDA's customer list, those requesting notice, and posted on the NDA website at agri.nv.gov. The survey was open for responses from July 28, 2021 to August 23, 2021. A total of 20 survey responses were received.

To assess potential economic impact to businesses and encourage public comment on the proposed regulations, Nevada Department of Agriculture (NDA) released a digital survey, along with proposed regulation changes to Nevada Administrative Code (NAC) 554, to 7,244 businesses via email, however only 25 survey responses were received. Survey responses consisted of the following for the proposed changes to firewood:

- Seven (7) respondents reported that the proposed regulations may have an impact on their ability to do business and three (3) reported that it would impact their ability to do business
- Some responses indicated that the regulation would make it too difficult to do business, purchase wood, maintain records and that alternative distribution methods would need to be pursued
- Three (3) respondents indicated that the annual economic impact would exceed \$5,000, one (1) indicated up to a \$5,000 annual impact, and 11 indicated it would be less than a \$1,000 annual impact

A link to all active surveys, including NAC 554, was shared on social media and the NDA Director's July newsletter on July 30, 2021. This survey was also posted again to social media on August 11, 2021, August 18, 2021, and August 21, 2021. The survey

was shared by the Nevada Farm Bureau through their monthly newsletter on July 30, 2021 and August 6, 2021.

Comments were solicited from affected businesses in the same manner as they were solicited from the public and are included in the workshop and hearing meeting minutes. The summary may be obtained as instructed in the response to question #2.

Current agriculture operations that receive onion and garlic inspections were also contacted to complete the survey due to the proposed fee increase for allium producers. Below is additional information on the outcomes of the survey:

- 258 entities received the survey
- An additional email was sent to all agriculture businesses and NDA contacts registered through the NDA's MailChimp account. The email was sent to 7,244 contacts. Because of a technical error, access to the survey link was experienced, so the survey was reopened, and an email was issued directly to those impacted, resulting in four additional responses.

Survey responses consisted of the following for the proposed fee increase for inspecting onion and garlic crops:

- Eight (8) respondents
- Two (2) responded that the proposed regulations would impact their ability to do business and one (1) indicated it may impact their ability to do business
- One (1) respondent indicated the proposed change would result in an annual economic impact that would exceed \$10,000, one (1) indicated it would range from \$1,000-\$5,000, one (1) indicated it would range from \$100-\$1,000, and one (1) response indicated

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by email to persons who were known to have an interest in the subject of firewood and firewood distribution as well as any persons who had specifically requested such notice.

These documents were also posted and made available at the following locations:

- Nevada Department of Agriculture, 405 S. 21st St., Sparks, NV 89431
- Nevada Department of Agriculture, 2300 E. Saint Louis Ave., Las Vegas, NV 89104
- Nevada Department of Agriculture, 4780 E. Idaho St., Elko, NV 89801
- State Capitol Building
- Nevada State Library & Archives
- County Public Libraries, email contact available at <https://nsla.nv.gov/find-a-library-directory>
- Nevada Department of Agriculture website at agri.nv.gov
- Nevada Public Notice website at <https://notice.nv.gov/>

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- Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>

A workshop was held on January 13, 2022 and the minutes of that meeting are available at https://agri.nv.gov/Plant/Workshop_and_Hearing_Meetings/Division_of_Plant_Health_and_Compliance_Workshops_and_Hearings/ contain a recording of the discussion held regarding the proposed amendments.

A copy of this summary of the public response to the proposed regulation and survey may be obtained from the Nevada Department of Agriculture, Attn: Ashley Jeppson, 405 S. 21st St., Sparks, NV 89431, 775-353-3601, or ajeppson@agri.nv.gov.

- 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.

Efforts have been made on a national level to limit the movement of firewood from infested areas or those where pests of particular concern have been detected. However, due to limited resources and varying state circumstances, the regulation and enforcement of firewood movement has been the responsibility of individual states. It is critical that Nevada establish regulations to prevent the movement of firewood from quarantined areas in the interest of Nevada's vulnerable forestlands, agriculture, and landscapes. Neighboring states have also established these requirements. This regulation does not duplicate federal regulations as it is the expectation that this issue is addressed by individual states.

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

Due to the extent and challenges associated with regulating firewood, USDA has expressed that it is the expectation that the movement of firewood from quarantined areas be regulated on an individual state basis. Efforts have been made on a national level to limit the movement of firewood from infested areas or those where pests of particular concern have been detected. However, due to limited resources and varying state circumstances, the regulation and enforcement of firewood movement has been the responsibility of individual states. It is critical that Nevada establish regulations to prevent the movement of firewood from quarantined areas in the interest of Nevada's vulnerable forestlands, agriculture, and landscapes. Neighboring states have also established these requirements.

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

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- Whether the proposed regulation establishes a new fee or increases an existing fee. The table below provides a breakdown of 2021 acreage and revenues for garlic and onion inspections along with the anticipated increase in revenues. The increase in fees for garlic and onion inspections would be used to cover program administration costs.

Crop Type	2021 Acreage	2021 Revenue	2022 Projected Acreage	2022 Projected Revenue**	2022 Projected Revenue w/ fee
Garlic	715.46	\$26,060.05	725.00	\$26,407.54*	\$26,407.54*
Onion	5195.62	\$25,978.10	5,300.00	\$26,500.00**	\$42,400.00***
Totals	5,911.08	\$52,038.15	6,025.00	\$52,907.54**	\$68,807.54***

*Includes Allium registration fee, seed certification fee, and optional stem and bulb nematode assessment fee.

**Does not include proposed onion (true seed) fee increase.

***The proposed onion (true seed) fee increase (\$5.00/acre to \$8.00/acre).

- Copies of this notice and proposed regulations will be mailed to members of the public upon request.

Copies may also be requested or inspected by visiting the NDA offices located in Elko, Las Vegas or Sparks or the Nevada State Library and Archives at 100 Stewart Street, Carson City, NV 89701. A reasonable fee may be charged for copies or postage if it is deemed necessary. Requests for mailed copies may be directed to

Nevada Department of Agriculture
 Division of Plant Health and Compliance
 405 South 21st Street
 Sparks, NV 89431
 Phone: 775-353-3601; Email: ajeppson@agri.nv.gov

- Notice of this meeting was sent to all persons on the Department’s mailing list for administrative regulations and posted on or before 10 a.m. thirty days before the meeting at the following locations:
 - Nevada Department of Agriculture website at agri.nv.gov
 - Nevada Public Notice website at <https://notice.nv.gov/>

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- Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>

- Persons wishing to make oral comment upon the regulation draft of the Nevada Department of Agriculture may participate at the scheduled hearing. Persons wishing to submit written testimony or documentary evidence may submit the material by emailing ajeppson@agri.nv.gov or via mail to the following address: Nevada Department of Agriculture, Attn: Ashley Jeppson, 405 S. 21st ST, Sparks, NV 89431. Written submissions must be received by the NDA on or before June 10, 2022
- Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Please contact the Department at 775-353-3601 or ajeppson@agri.nv.gov at least three (3) business days prior to the meeting.
- If no person who is directly affected by the proposed action appears to request time to make and oral presentation, the NDA may proceed immediately to act upon any written submissions.
- Upon adoption of any regulation, the agency, if requested to do so by an interested person, either 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 reason for overruling the consideration urged against its adoption.

ADOPTION HEARING AGENDA
NEVADA DEPARTMENT OF AGRICULTURE
NAC 554: R130-20
June 7, 2022
10am

Note: Items on the agenda may be taken out of the posted order, items may be combined for consideration, and items may be pulled or removed from the agenda.

I. Call to Order

II. Public Comment: In consideration of others who may wish to provide public comment, please avoid repetition, and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

III. For possible action: Discussion and Adoption of Proposed Permanent Regulations
a. Amendment of regulations that pertain to Chapter 554 of the Nevada Administrative Code.

IV. Public Comment: In consideration of others who may wish to provide public comment please avoid repetition and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

V. Adjourn