

LCB File No. R080-99

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

NOTICE OF WORKSHOP

A workshop will be held on proposed amendments to the following Nevada Administrative Codes:

1. NAC 554.180 EXTERIOR QUARANTINE AGAINST JAPANESE BEETLE
2. NAC 554.590 EXTERIOR QUARANTINE AGAINST PINE SHOOT MOTH

DATE: July 23, 1999

TIME: 9:30 a.m.

PLACE Reno Office
Nevada Department of Agriculture
350 Capitol Hill Avenue
Reno, Nevada

For clarification on the proposed amendments, or to obtain a copy of the proposed amendments, contact Robert Gronowski at (775) 688-1182 ext. 239.

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.

NOTICE OF INTENT TO ADOPT REGULATIONS

THE NEVADA DEPARTMENT OF AGRICULTURE PROPOSED AMENDMENTS TO NAC 554.180 PERTAINING TO EXTERIOR QUARANTINE AGAINST JAPANESE BEETLE

Need and purpose of the proposed amendments:

Japanese Beetle is known not to exist in Nevada. Establishment of Japanese Beetle in Nevada would cause economic loss to agriculture and the public.

The proposed amendments will harmonize Nevada's regulations with other western states quarantine regulations against Japanese Beetle

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

1. Adverse effects:
Nurseries in the area under quarantine will be required to treat plants prior to shipment into Nevada. The treatment does increase the cost but market economy will determine if they want to continue to ship to Nevada. These nurseries have other outlets in the infested zone for their stock.
2. Beneficial effects:
Nurseries who want to ship plants from infested areas will be able to treat them and continue to ship them to Nevada
3. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term economic effects.

Economic effect of the proposed amendments on the public:

1. Adverse effects:
None
2. Beneficial effects:
The public will benefit from the prevention of the entry and establishment of this pest which if it becomes established would cause severe economic losses to occur.
3. Immediate and long term effects:
The adverse and beneficial effects are the same for the immediate and long term economic effects.

Economic cost to the agency for the enforcement of the proposed amendments:

There will be no additional costs to the agency for the enforcement.

Description of any regulations of any other state, local or federal regulation that the proposed amendments overlap or duplicate:

There are no other state, local, or federal government regulations that these amendments overlap or duplicate.

Fees:

The proposed amendments do not contain any new fees or increase any existing fees.

The date, time place, and manner in which interested parties may present their views on the proposed amendments:

DATE: August 9, 1999

TIME: 9:30 a.m.

PLACE: Nevada Department of Agriculture
350 Capitol Hill Avenue
Reno, Nevada 89502

Manner: Written comments and testimony may be submitted prior to the hearing date and will be included with any verbal testimony presented in the record of the hearing.

Address at which the text of the proposed regulations may be inspected and copied:

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Reno, NV 89502**

**Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431**

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

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

**Nevada Department of Agriculture
Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801**

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

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 Robert Gronowski at the Nevada Department of Agriculture, 688-1182 ext. 239 as soon as possible.

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

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

Paul Iverson /s/
Paul Iverson, Director

7-6-99
Date

LCB File No. R080-99

Nevada Department of Agriculture
350 Capitol Hill Ave.
Reno, Nevada 89502

AMENDMENTS TO NAC 554.170

PERTAINING TO THE EXTERIOR QUARANTINE ON JAPANESE BEETLE

Authority: NRS 554.020

EXTERIOR QUARANTINE AGAINST JAPANESE BEETLE 554.170 Establishment of quarantine. A quarantine against the Japanese beetle (*Popillia japonica*) of the family Scarabaeidae, its hosts and possible carriers is hereby ordered.

554.180 Areas under quarantine. The area under quarantine against the Japanese beetle consists of:

1. The states of Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia;

2. The counties of *Blount*, Calhoun, *Chambers*, *Cherokee*, Clay, Cleburne, *Coosa*, DeKalb, *Etowah*, Jackson, Jefferson, Lee, *Limestone*, *Macon*, Madison, Marion, Marshall, *Morgan*, Randolph, *St. Clair*, *Shelby*, *Talladga*, *Tallapoosa*, Tuscaloosa and Winston in Alabama;

3. The Counties of Jonson, Sedwick, Shawnee and Wyandotte in Kansas

4. The counties of Carver, Dakota, Hennepin Ramsey, and Scott in Minnesota

~~[3.]~~ 5. The counties of ~~[Crawford,]~~ Franklin, ~~[Gasconade,]~~ Jefferson, ~~[Saint Charles,]~~ Saint Louis, Warren and Washington, *Stone* and the City of St. Louis in Missouri;

~~[4. The county of Lancaster in Nebraska;]~~

5. The counties of Dane, Door, *Found Du Lack*, *Jefferson*, Kenosha, Milwaukee, *Ozaukee*, *Rucine*, Rock, *Sheboygan*, *Wood* and Waukesha in Wisconsin;

6. The District of Columbia;

7. The counties of *Niagara*, ~~[Lincoln,]~~ *Haldimand-Northfork*, ~~[Wellan]~~ and *Hamilton-Wentworth* in the Province of Ontario, Canada;

8. The ~~[counties]~~ Regional Municipalities of *Brome*-Missiquoi, Le Haut-Richelieu, Champlain, *Rousillon* and ~~[Saint Jean]~~ *Le Bas-Richelieu* in the Province of Quebec, Canada. ; and

~~[9. The Anderson Air Force Base in Guam.]~~

554.190 Hosts and possible carriers. The hosts and possible carriers of the Japanese beetle are:

1. Soil, humus, compost, ~~and~~ manure *and all growing media*, except when packaged commercially;
2. Grass sod;
3. All plants with roots, except bareroot plants which are free from soil *in amounts that could conceal Japanese beetle larvae or pupa*;
4. Bulbs, corms, tubers, and rhizomes of ornamental plants ~~and plant crowns or roots for propagation, except when they are free from soil;~~ and
5. Any other plant, part of a plant, article or means of conveyance determined by a state quarantine officer as presenting the hazard of spreading live Japanese beetles because of infestation or exposure to infestation.

554.200 Certification of commodities entering Nevada. The hosts and possible carriers of the Japanese beetle, when originating in any area under quarantine, are prohibited from entering Nevada unless:

1. *All hosts and possible carries of Japanese beetle are approved for entry into Nevada from the areas under quarantine when accompanied by [A] a certificate issued by an authorized state [or] agricultural [regulatory] official at the point of origin [accompanies the hosts or possible carriers.] stating that the commodity, shipment or means of conveyance was [fumigated with methyl bromide or otherwise treated or grown in accordance with methods or procedures approved by the administrator.] treated for Japanese beetle prior to shipment with methods or procedures approved by the Administrator or by a certificate issued by an authorized agriculture official at the point of origin stating that the article or commodity was grown in accordance with methods and procedures approved by the administrator.*

~~[2. The host or possible carrier is a house plant grown indoors or in a glass house and passes an inspection by a deputy state quarantine officer or is certified at the point of origin as having been grown in such a manner or treated in a manner approved by the administrator.]~~

2. Approved Treatments:

All pesticide products must be registered in the state where treatments are applied, and must be used in strict accordance with product labeling instructions and worker protection standards. Nothing in this regulation is intended to augment or contradict EPA-approved label instructions.

All treatments shall be performed under direct supervision of a Phytosanitary official or under a compliance agreement. Treatments and procedures under a compliance agreement shall be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used shall be faxed to the Nevada Division of agriculture at (775) 668-1178 or be electronically mailed to rgronow@govmail.state.nv.us, as well as accompanying the

shipment. The Phytosanitary certificate shall bear the following additional declaration: The rooted plants were treated to control Popillia japonica according to the criteria for shipment to category 1 states as provided in the U. S. Domestic Japanese Beetle Harmonization plan.

A. Dip Treatment- Balled and Burlap and Container Plants

~~[3. The host or possible carrier is enclosed in a container, or is balled and covered in burlap, and is accompanied by a certificate issued by an authorized state or agricultural regulatory official at the point of origin stating that the material is treated with not less than 32 ounces of active ingredient of]Chlorpyrifos (Dursban4E, Dursban TNP). Apply at a rate of 2.0 active ingredient (64 ounces) per 100 gallons of water. [and, if]~~

Only balled and burlapped, potted, and containerized nursery stock with ~~the~~ root balls twelve (12) inches ~~is less than 1 foot~~ or smaller in diameter and ~~does not~~ consisting of non-clay soil ~~containing clay.~~ are eligible. The potted or balled and burlapped stock will be dipped so as to submerge the entire root ball and all growing media of the container or the root retaining materials into the solution. The submersion time should be a minimum of two (2) minutes and until complete saturation occurs. Upon removal from the solution the plants are drained in an environmentally safe way.

B. DRENCH TREATMENTS- CONTAINER PLANTS ONLY

Potting media must be sterile and soilless. Containers must be clean . Field potted plants are not eligible for certification using this treatment . This treatment is targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated. Pesticides and methods of application approved for drench treatments are:

Imidaclopid (Marathon 60 WP). Apply one-half (0.5) gram of active ingredient per gallon , just prior to Japanese beetle adult flight season (June 1, or as otherwise directed by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. During the adult flight season, plant must be retreated if not shipped after sixteen (16) weeks.

Bifenthrin 9 Talstar Nursery Flowable 7.9%).

Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

C. Media (Granule) Incorporation-Container plants only

All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be clean and soilless , containers must be clean and plants for potting must be free of Japanese beetle. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. The treatment targets eggs and early

first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides and methods of media incorporation approved are:

Imidacloprid (Marathon 1G). Mix at a rate of five (5) pounds per cubic yard.

Bifenthrin (talstar Nursery Granular or Talstar T&O Granular (2.5G). Mix at the rate of 25 ppm or one-third of a pound per cubic yard based on a potting media bulk density of 200 (bulk density = dry weight in pounds of one cubic yard of potting media).

Tefluthrin (Fireban 1.5 G)

Mix at a rate of 25ppm based on a potting media bulk density of 400 (see above for definition of bulk density).

D. Methyl bromide Fumigation

Nursery stock: methyl bromide fumigation at normal atmosphere pressure, chamber or tarpaulin following all label rates and precautions to avoid plant injury.

3. Approved Methods or procedures for origin certification

Commercial plant shipments with soil may be shipped from the area under quarantine into Nevada provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be issued only if the shipment conforms fully with (A), (B), or (C) below:

A. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found free from all life stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed, and shipped; or

B. The plants were not produced in an area under quarantine, were transported into the area under quarantine in a closed conveyance or closed container and at all times thereafter were protected from becoming infested with Japanese beetle; or

C. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of hosts and possible carriers of Japanese beetle will be accepted for entry into Nevada from these uninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of approved counties will maintained by the Administrator. The agricultural officials of other states may recommend a non

infested county be placed on the approved list by writing for such approval and stating how the surveys were made giving the following information:

- 1. Area surveyed.*
- 2. How the survey was carried out.*
- 3. Personnel involved.*
- 4. If the county was previously infested, the date of the last infestation.*

The recommendation for approval of such counties will be evaluated by the Plant Industry Bureau of the Nevada Division of Agriculture. Approval of such counties will be made by the Administrator.

If heavy infestation occurs in neighboring counties the approval may be denied. To be maintained on the approved list, each county must be reappraised every twelve (12) months. Shipments of hosts and possible carriers from non infested counties will only be allowed entry into Nevada if the noninfested county has been placed on the approved list prior to the arrival of the shipment in Nevada.

~~[4. The host or possible carrier is shipped in a mixture of growing media which does not have a predominance of mineral soil, and is accompanied by a certificate issued by an authorized state or agricultural regulatory official at the point of origin stating that the material is treated with isofenphos at a rate of 3.7 fluid ounces per 100 gallons of water and applied as a drench at the rate of 1 gallon of solution per 1.6 cubic foot of growing media.]~~

(Added to NAC by Dep't of Agriculture, eff. 2-9-79; A by St. Quarantine Officer, 11-12-93)

554.210 Permits for commodities entering Nevada. The administrator may issue permits allowing hosts and possible carriers to enter the state subject to the conditions and provisions which he prescribes.

(Added to NAC by Dep't of Agriculture, eff. 2-9-79)

554.220 Applicability of quarantine. The provisions of NAC **554.170** to 554.210, inclusive, do not apply to soil samples which are being moved pursuant to a federal compliance agreement.

NOTE: For any clarification of these amendments, please contact Robert Gronowski at (775) 688-1182 Ext. 239

NOTICE OF INTENT TO ADOPT REGULATIONS

THE NEVADA DEPARTMENT OF AGRICULTURE PROPOSED AMENDMENTS TO NAC 554.590 PERTAINING TO EXTERIOR QUARANTINE AGAINST PINE SHOOT MOTH

Need and purpose of the proposed amendments:

Pine shoot moth is known not to exist in Nevada. Establishment of Pine shoot in Nevada would cause economic loss to agriculture, forests and the public.

The proposed amendments add newly infested areas to the area under quarantine, and new certification requirements.

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

1. Adverse effects:
Treatment or trapping to determine uninfested status will increase the cost of shipping plants from infested areas.
2. Beneficial effects:
Nurseries who want to ship plants from infested areas will be able to treat the plants or have them certified based on trapping and continue to ship them to Nevada.
3. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term economic effects.

Economic effect of the proposed amendments on the public:

1. Adverse effects:
None
2. Beneficial effects:
The public will benefit from the prevention of the entry and establishment of this pest which if it becomes established would cause severe economic losses to occur.
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Paul Iverson /s/
Paul Iverson, Director

7-6-99
Date

LCB File No. R080-99

**Nevada Department of Agriculture
350 Capitol Hill Ave.
Reno, Nevada 89502**

AMENDMENTS TO NAC 554.590- NAC 554.690

PERTAINING TO THE EXTERIOR QUARANTINE ON EUROPEAN PINE SHOOT MOTH.

Authority: NRS 554.020

NAC 554.590 Establishment of quarantine. To prevent the introduction into Nevada of the European pine shoot moth, (*Rhyacionia buoliana*), the administrator hereby establishes a quarantine upon certain commodities which have originated in infested areas and may be carriers of the pest.

~~{Dep't of Agriculture, No. 54.05 § (a), eff. 2-1-52; A 3-1-70}~~

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

~~{Dep't of Agriculture, No. 54.05 § (b), eff. 2-1-52; A 3-1-70}~~

NAC 554.610 Infested areas. Connecticut, Delaware, *Idaho*, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Washington, West Virginia, ~~{Wisconsin and the County of Umatilla,}~~ *and* Oregon are infested areas.

~~{Dep't of Agriculture, No. 54.05 § (b) subsec. (b-1), eff. 2-1-52; A 3-1-70}~~

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.

~~{Dep't of Agriculture, No. 54.05 § (c), eff. 2-1-52; A 3-1-70}~~

NAC 554.630 Certificate for entry.

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 articles accompanied thereby have been produced in and shipped from a *growing site or growing area which has been trapped for European pine shoot moth by the authorized agriculture official of the noninfested state, county ~~district~~ or parish and found to be free of European pine shoot moth*; or

(b) The restricted articles accompanied thereby have been treated under official supervision before shipment in a manner prescribed by NAC 554.650 to 554.690, inclusive.

3. No certificate is required for pine trees, branches or twigs which are cut for ornamental purposes from October 20 to December 31 of any year.

~~{Dep't of Agriculture, No. 54.05 § (d) subsecs. (1) & (2), eff. 2-1-52; A-3-1-70}~~

NAC 554.640 Special permits. The administrator may issue special permits to the state forester fire warden 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 administrator so as to preclude infestation or exposure to infestation by the European pine shoot moth.

~~{Dep't of Agriculture, No. 54.05 § (d) subsec. (3), eff. 2-1-52; A-3-1-70}~~

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.

~~{Dep't of Agriculture, part No. 54.05-1, eff. 8-1-62}~~

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.

~~{Dep't of Agriculture, part No. 54.05-1, eff. 8-1-62}~~

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.

~~{Dep't of Agriculture, part No. 54.05-1, eff. 8-1-62}~~

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:

Period of treatment

Temperature in the chamber (°F) 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°F may result in injury to stock.

~~{Dep't of Agriculture, part No. 54.05-1, eff. 8-1-62}~~

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.

NOTE: For any clarification of these amendments, please contact Robert Gronowski at (775) 688-1182 Ext 239