

BRIAN SANDOVAL
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STATE OF NEVADA

JAMES R. BARBEE
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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 March 23, 2018 at 9:00 AM

DATE: February 13, 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 March 23, 2018 at 9:00AM.

Please post the agenda for R152-17 before 9:00am on March 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: _____

PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

LCB File No. R152-17

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 March 23, 2018 at 9:00AM 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. R152-17 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 noxious weeds, revising certain lists of designated noxious weeds; and providing other matters properly relating thereto.

1. The need for and the purpose of the proposed regulation or amendment
The purpose of the proposed amendment is to update the noxious weeds list to reflect current environmental conditions.
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.
A copy of the regulation is attached.
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:
 - a) Both adverse and beneficial effects; and
An economic positive is expected for producers of agricultural products noting an increase in yield through weed control efforts. An economic positive is expected for the hunting and fishing industry with increased habitat preservation. An economic positive is expected for property owners noting a decrease in values for properties infested with noxious weeds.
An economic negative is expected for the initial cost of weed control.
 - b) Both immediate and long-term effects
The immediate effect is the action needed by public and private landholders to address to the noxious weeds added to the list. The long-term effect is the overall positive health of Nevada's ecosystems and native plant species.
4. The estimated cost to the agency for enforcement of the proposed regulation.
A slight increase in man-hours and associated cost is expected while developing outreach materials and educating the public on the seven new additional weeds. However, because three of the seven new weeds are not currently present in the state no additional costs associated with enforcement are expected.
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. In addition to the state's noxious weeds list, county weed districts have been given statutory authority in NAC 555.036 through 555.095 to add additional weed species to the state list requiring

property owners in those counties to control them. The USDA also has a federal noxious weeds list but the regulations imposed on those weeds focus on exclusionary tactics through commerce.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.
7 CFR 360 – Noxious Weed Regulations
7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
The proposed action adds eight new weed species to the states noxious weeds list, so by theory will become more stringent. However, these eight species are not currently present or are only present in small pockets where eradication can be achieved. If these species are not added to the list and an infestation will be allowed to develop and a more immediate stringent action is likely.
8. Whether the proposed regulation establishes a new fee or increases an existing fee.
No additional fee increase is expected for the proposed action

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Staff from the Noxious Weed Program from Plant Industry, Nevada Department of Agriculture determined that this regulation will have a positive impact on small businesses.

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 9:00 AM March 17, 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

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: March 23, 2018

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 noxious weeds; revising certain lists of designated noxious weeds; 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.

**PROPOSED REGULATION OF THE
STATE QUARANTINE OFFICER**

LCB File No. R152-17

February 8, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 555.130.

A REGULATION relating to noxious weeds; revising certain lists of designated noxious weeds; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Quarantine Officer to declare by regulation under certain circumstances the weeds of the State that are noxious weeds. (NRS 555.130) Existing regulations set forth three categories of such weeds, organized by how widespread each weed is throughout the State. (NAC 555.010) **Section 1** of this regulation revises those categories by adding certain new weeds and re-categorizing certain existing weeds.

Section 1. NAC 555.010 is hereby amended to read as follows:

555.010 1. The following weeds are designated noxious weeds:

(a) Category A Weeds:

- | | |
|---|--------------------------------------|
| (1) African rue. | <i>(Peganum harmala)</i> |
| (2) Austrian fieldcress. | <i>(Rorippa austriaca)</i> |
| (3) Austrian peaweed. | <i>(Sphaerophysa salsula)</i> |
| (4) Black henbane. | <i>(Hyoscyamus niger)</i> |
| (5) <i>Barbed goatgrass.</i> | <i>(Aegilops triuncialis)</i> |

(5) <i>Buffelgrass.</i>	<i>(Pennisetum ciliare)</i>
(6) Camelthorn.	<i>(Alhagi pseudalhagi)</i>
[(6)] (7) Common crupina.	<i>(Crupina vulgaris)</i>
[(7)] Dalmatian toadflax.	<i>(Linaria dalmatica)</i>
(8) <i>Curly leaf pondweed.</i>	<i>(Potamogeton crispus)</i>
(9) <i>Desert knapweed.</i>	<i>(Volutaria tubuliflora)</i>
(10) Dyer's woad.	<i>(Isatis tinctoria)</i>
[(9)] (11) Eurasian water-milfoil.	<i>(Myriophyllum spicatum)</i>
[(10)] Giant reed.	<i>(Arundo donax)</i>
— [(11)] (12) <i>Flowering rush.</i>	<i>(Butomus umbellatus)</i>
(13) Giant salvinia.	<i>(Salvinia molesta)</i>
[(12)] (14) Goats rue.	<i>(Galega officinalis)</i>
[(13)] (15) Green fountain grass.	<i>(Pennisetum setaceum)</i>
[(14)] (16) Houndstongue.	<i>(Cynoglossum officinale)</i>
[(15)] (17) Hydrilla.	<i>(Hydrilla verticillata)</i>
[(16)] (18) Iberian starthistle.	<i>(Centaurea iberica)</i>
[(17)] (19) <i>Jointed goatgrass.</i>	<i>(Aegilops cylindrica)</i>
(20) Klamath weed.	<i>(Hypericum perforatum)</i>
[(18)] (21) Malta starthistle.	<i>(Centaurea melitensis)</i>
[(19)] Mayweed chamomile.	<i>(Anthemis cotula)</i>
— [(20)] (22) Mediterranean sage.	<i>(Salvia aethiopsis)</i>

{(21)} (23) Purple loosestrife.	(<i>Lythrum salicaria</i> , <i>Lythrum virgatum</i> and their cultivars)
{(22)} (24) Purple starthistle.	(<i>Centaurea calcitrapa</i>)
{(23)} (25) Rush skeletonweed.	(<i>Chondrilla juncea</i>)
{(24)} Sow thistle.	(<i>Sonchus arvensis</i>)
—(25) Spotted knapweed.	(<i>Centaurea maculosa</i>)
(26) Squarrose knapweed.	(<i>Centaurea virgata</i>)
(27) <i>Stinkwort</i> .	(<i>Dittrichia graveolens</i>)
(28) Sulfur cinquefoil.	(<i>Potentilla recta</i>)
{(28)} (29) Syrian bean caper.	(<i>Zygophyllum fabago</i>)
{(29)} (30) <i>Ventenata</i> .	(<i>Ventenata dubia</i>)
(31) Yellow starthistle.	(<i>Centaurea solstitialis</i>)
{(30)} (32) Yellow toadflax.	(<i>Linaria vulgaris</i>)
(b) Category B Weeds:	
(1) <i>Black henbane</i> .	(<i>Hyoscyamus niger</i>)
(2) Carolina horse nettle.	(<i>Solanum carolinense</i>)
{(2)} (3) <i>Dalmation toadflax</i> .	(<i>Linaria dalmatica</i>)
(4) Diffuse knapweed.	(<i>Centaurea diffusa</i>)
{(3)} (5) <i>Giant reed</i> .	(<i>Arundo donax</i>)
(6) Leafy spurge.	(<i>Euphorbia esula</i>)
{(4)} (7) <i>Mayweed chamomile</i> .	(<i>Anthemis cotula</i>)

(8) Medusahead.	(<i>Taeniatherum caput-medusae</i>)
[(5) Musk thistle.	(<i>Carduus nutans</i>)
—(6) Russian knapweed.	(<i>Acroptilon repens</i>)
—(7)] (9) Perennial sow-thistle.	(<i>Sonchus arvensis</i>)
(10) Sahara mustard.	(<i>Brassica tournefortii</i>)
[(8) Scotch thistle.	(<i>Onopordum acanthium</i>)
—(9)] (11) Spotted knapweed.	(<i>Centaurea maculosa</i>)
(12) White horse nettle.	(<i>Solanum elaeagnifolium</i>)
(c) Category C Weeds:	
(1) Canada thistle.	(<i>Cirsium arvense</i>)
(2) Hoary cress.	(<i>Cardaria draba</i>)
(3) Johnson grass.	(<i>Sorghum halepense</i>)
(4) <i>Musk thistle.</i>	(<i>Carduus nutans</i>)
(5) Perennial pepperweed.	(<i>Lepidium latifolium</i>)
[(5)] (6) Poison Hemlock.	(<i>Conium maculatum</i>)
[(6)] (7) Puncture vine.	(<i>Tribulus terrestris</i>)
[(7)] (8) Russian knapweed.	(<i>Acroptilon repens</i>)
(9) Salt cedar (tamarisk).	(<i>Tamarix</i> spp.)
[(8)] (10) Scotch thistle.	(<i>Onopordum acanthium</i>)
(11) Water Hemlock.	(<i>Cicuta maculata</i>)

2. Category A weeds are weeds that are generally not found or that are limited in distribution throughout the State. Such weeds are subject to:

(a) Active exclusion from the State and active eradication wherever found.

(b) Active eradication from the premises of a dealer of nursery stock.

3. Category B weeds are weeds that are generally established in scattered populations in some counties of the State. Such weeds are subject to:

(a) Active exclusion where possible.

(b) Active eradication from the premises of a dealer of nursery stock.

4. Category C weeds are weeds that are generally established and generally widespread in many counties of the State. Such weeds are subject to active eradication from the premises of a dealer of nursery stock.

5. As used in this section, “dealer of nursery stock” has the meaning ascribed to it in NRS 555.23525.

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608

(Revised LCB File#)

1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

- NDA's noxious weeds coordinator established a noxious weeds review committee comprised of 24 members. The members represented different geographical regions around the state covering both rural and urban communities.

NDA office Locations:

Department of Agriculture
405 S. 2 1st Street
Sparks, NV 89431

Department of Agriculture
2300 E. Saint Louis Ave.
Las Vegas, NV 89104

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

2. The manner in which the analyses was conducted.

- NDA's noxious weeds coordinator established a noxious weeds review committee comprised of 24 educators and weed management professionals from around the state. Once established a survey was sent to the committee members to determine first, what species should be moved within the A, B, and C categories determined by density populations and distribution around the state, and second to determine if any new species of weeds should be added to the list. Upon completion of the survey, follow-up emails were sent to the group soliciting response and/or individual meetings were conducted.

3. The estimated direct and indirect, immediate and long-term economic effects of the proposed regulation on the small businesses it is to regulate, including, without limitation.

- An estimated negative direct and immediate effect on small businesses is expected from the proposed changes for costs incurred for weed control efforts on properties infested with such weeds. The costs include herbicide purchases, pest control contracts, labor, and/or equipment needs.
- An estimated positive direct and immediate effect on small business is expected during the selling of properties on the real-estate market free of noxious weeds. This includes a long-term economic positive on preserving property values impacted by fluctuating markets values.
- An estimated indirect cost would be unforeseen equipment maintenance needs, administration deviation from company production, and possible increased disposal requirements.
- An economic immediate and long-term positive is expected for producers of agricultural products noting an increase in yield through weed control efforts as

well as meeting weed-free standards facilitating a wider buyers-market.

- An economic long-term positive is expected for the hunting and fishing industry with increased habitat preservation.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

- Weed control laws are already set in statute per NAC 555.005. In the process of revising the list certain weeds were considered for removal. However, no one species was selected unanimously for removal. Such weeds were instead moved or left in category "C".

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

- A slight increase in man-hours and associated cost is expected while developing outreach materials and educating the public on the seven new additional weeds. However, be that three of the seven new weeds are not currently present in the state no additional costs associated with enforcement are expected.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

- No additional fee increase is expected for the proposed action.

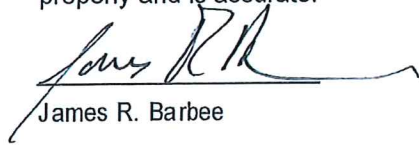
7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

- The proposed action adds seven new weed species to the states noxious weeds list, so by theory will become more stringent. However, these seven species are not currently present or are only present in small pockets where eradication can be achieved. If these species are not added to the list and an infestation is allowed to develop a more immediate stringent action is likely.

8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

- The proposed regulation change to the state's noxious weeds list will protect agricultural yields, wildlife habitat, native plant species, and property values.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

A handwritten signature in black ink, appearing to read "James R. Barbee", is written over a horizontal line.

James R. Barbee

Director

Nevada Department of Agriculture

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608(1)

Determination of Necessity

(Revised LCB File#)

1. Background

Nevada's noxious weeds list was last revised in 2009. Since then several of the "A" rated noxious weed species have become established in multiple counties across the state making eradication of such species increasingly difficult to achieve. In addition, several new species have been identified in bordering states that have, or are on the verge of establishing themselves in Nevada. To ensure weed control and conservation districts utilize their limited funding towards addressing weeds that can be eradicated in an early-detection rapid-response case scenario the current list must be revised.

2. Description of solicitation showing a concerted effort. NRS233B.0608(1)

Prior to developing the draft changes to NAC 555.010, a review committee was established comprised of twenty-four members representing five geographical regions around the state. Once the draft changes were initially established, a Notice of Workshop to Solicit Comments was sent out via email and posted at required locations. To optimize attendance, the workshop was televised at twelve University of Nevada Cooperative Extension (UNCE) offices around the state. Prior to the workshop, weed and conservation districts advertised the event to their members via email correspondence. In addition, details of the proposed changes and workshop were shared during a presentation to attendees of an UNCE pesticide training seminar televised around the state. Approximately one week prior to the workshop, an email was sent to the noxious weeds review committee, weed and conservation districts, university extension educators, plus federal and private weed management professionals reminding them of the workshop.

3. Does this regulation impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? NRS 233B.0608(1)

X No

4. How was that conclusion reached? NRS 233B.0608(3)

Nevada's noxious weed laws have been in effect since the 1950s. Since several of the new weed species added to the current list have yet to establish themselves the estimated economic impact imposed on small businesses is not expected to be significant. However, if these new species are not added and they infest the state in larger numbers the economic impact of controlling them later may pose a greater economic burden.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate. (NRS 233B.0608 (3))


James R. Barbee

Director

Nevada Department of Agriculture

