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DEPARTMENT OF AGRICULTURE

405 South 21st Street
Sparks, Nevada 89431

MEMORANDUM

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

FROM: Robert Little, Plant Industry Division Administrator – 775-353-3729
rlittle@agri.nv.gov Fax Number 775-353-3661

SUBJECT: Posting of Agenda for Workshop Scheduled for Monday, October 17, 2016, at 3:00 pm.

DATE: September 29, 2016

I have attached a copy of the agenda for the Nevada Department of Agriculture Workshop that will be held on Monday, October 17, 2016, at 3:00 pm.

Please post the agenda for NAC 555 – Pest Control Operators, before 9:00am, on September 30, 2016, 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.

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 Workshop

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 89445

DATE AND TIME: Monday, October 17, 2016, at 3:00 pm.

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 clarification on Pest Control Operators Licensing, 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 Jerri Conrad 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 <http://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
NEVADA DEPARTMENT OF AGRICULTURE**

LCB File No. _____

DIVISION OF PLANT INDUSTRY

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

The Nevada Department of Agriculture, 405 South 21st Street, Sparks, Nevada, 89431, is proposing the Amendment of regulations pertaining to chapter NAC 555, of Nevada Administrative Code. A workshop has been set for Monday, October 17, 2016, at 3:00 pm. The workshop will be video conferenced between the following offices:

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

The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

“Clarification on Pest Control Operators Licensing“

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting:

Ruth Tietjen, Administrative Aid
Plant Industry Division
Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431
(775) 353-3670
rtietjen@agri.nv.gov

A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency’s mailing list for administrative regulations and posted at the following locations:

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

State Capitol Building
Nevada State Library and Archives, 100 N. Stewart Street, Carson City, NV
Dennis Belcourt – AG's Office
LCB website: www.leg.state.nv.us
Nevada Public Notice website: www.notice.nv.gov
Nevada Department of Agriculture Website: www.agri.nv.gov

NAC 555.410 & NAC 555.700:

As used in this section, “spot treatment” means the application of pesticide to a spot or two or more noncontiguous spots, the total coverage of which does not exceed one-tenth of the size of the total **treatment potential treatable** area. The size of each individual spot for indoor applications must not exceed 2 square feet and for outdoor applications must not exceed 4 square feet.

Justification: We see that “treatment” could mean the calculated area that was/is being treated, which may not be correct or usable for a spot treatment for other pests that would otherwise be treated solely as a spot treatment.

Sec. 2 of R093-15

1. “Consultant” means a person who: ~~(a) Is employed by a person who is subject to the provisions of chapter 586 of NRS; and (b)~~ Publicly holds himself or herself out as being in the business of identifying pests or recommending pesticides for the purpose of detecting, preventing, controlling or exterminating pests.

~~2.~~ The term does not include:

a. a provider of continuing education[.]; **or**

b. *a Nevada Cooperative Extension Educator; or*

c. *a general merchandise store that retails pesticides directly to the consumer (Wal-mart, Target, K-mart) without significantly influencing a purchasing decision; or*

d. *a specialty store that retails pesticides directly to the consumer (hardware, nursery, drugstore, grocery) without significantly influencing a purchasing decision.*

Justification: We see that tying consultant to Chapter 586 severely limits and puts Nevada RUP dealers at a significant disadvantage against consultants that are not subject to Chapter 586.

NAC 555.280

1. The following fields are established for the licensing of pest control personnel:

(a) Aerial—The use of aircraft , including, without limitation, an unmanned aerial vehicle, for the application of pesticides on standing or running water, rangeland, agricultural crops, forest, idle cropland and noncropland associated with the production of agricultural crops.

(b) Agricultural ground—The use of ground equipment for the application of pesticides on livestock, rangeland, agricultural crops, idle cropland and noncropland associated with the production of agricultural crops.

(c) Urban and structural—The use of ground equipment for the application of pesticides in urban areas and in, on or around structures.

(d) Governmental agency—The use of pesticides classified for general use by an employee of a federal, state or local governmental agency, including, without limitation, for highway maintenance, weed control or structural pest control.

(e) Consultant - A person who holds himself/herself as an authority on pesticide use, or solicits services, or recommendations of any pesticide use, or provides identification of pests, or solicits services or sales for any pesticides used.

2. The following categories are established for the licensing of pest control personnel under

the fields of licensing:

(a) Aerial:

(1) Insect pests—The application of insecticides, miticides and acaricides.

(2) Weeds—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungi pests—The application of fungicides, bactericides and nematocides.

(b) Agricultural ground:

(1) Insect pests—The application of insecticides, miticides and acaricides.

(2) Weeds—The application of herbicides and plant regulators.

(3) Desiccants and defoliants—The application of desiccants and defoliants.

(4) Fungi pests—The application of fungicides, bactericides and nematocides.

(5) Vertebrate pests — The application of various substances on agricultural ground for the control of vertebrate pests, including, without limitation, the use of fumigants for burrowing rodents. This category does not include the control of vertebrate pests in, on or around industrial complexes, institutional complexes, dwelling units or other structures designed for use by humans, or on ornamentals or turf in, on or around such structures.

(c) Urban and structural:

(1) Limited landscape—The control of insect pests, vertebrate pests and plant diseases and the use of plant regulators on ornamentals and turf in urban areas, including, without limitation, fruit trees in urban areas if the fruit trees are not used for commercial purposes.

(2) Industrial and institutional—The control of insect pests and vertebrate pests in, on or around industrial complexes, institutional complexes and dwelling units.

(3) Structural—The control of wood-destroying pests, inspection for wood-destroying pests and inspection for conditions conducive to infestations of wood-destroying pests.

(4) Fumigation—The use of poisonous and lethal fumigants.

(5) Aquatic—The control of insect pests, weeds and vertebrate pests in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.

(6) Weeds—The control of weeds in the maintenance of landscapes, turf and rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way. This category does not include the control of aquatic weeds.

(7) Preservation of wood—The application of pesticides directly to wood or wood products that are not a part of a habitable structure to prevent or control the degradation of the wood or wood product by a wood-destroying organism, including, without limitation, a fungus or bacterium.

(8) Cooling towers, biocides and water processes—The use of antimicrobials and biocides to control bacteria and other single-celled organisms in cooling water, wells and other water processing systems.

(d) Governmental agency:

(1) Agricultural plant—The control of any pest on or around any agricultural crop, including, without limitation, on or around land used for the production of forage, grain, pasture, seed, row and fruit crops and rangeland, idle cropland and land on which crops are not planted that is associated with the production of agricultural crops, excluding fumigation pest control.

(2) Rangeland and forest—The control of any pest in rangeland, forest, forest nurseries and forest seed-producing areas, including, without limitation, site preparation, release work, insect control and reforestation projects.

(3) Ornamental, turf, nursery, greenhouse and interior landscape—The control of any pest in the maintenance and production of ornamental plants and turf or the maintenance of a nursery, greenhouse or interior landscape, including, without limitation, the production and maintenance of ornamental trees, shrubs, flowers, home fruit trees and home vegetable gardens, excluding fumigation pest control.

(4) Seed treatment—The treatment of seeds to control insects, fungi, bacteria and other microorganisms, excluding fumigation pest control.

(5) Aquatic and mosquito—The control of any pest, including, without limitation, insects, weeds and fish, associated with standing or running water, including, without limitation, reservoirs, lakes, rivers, aquatic cropland and wetland areas, excluding public health pest control.

(6) Right-of-way and weed—The control of any pest in the course of maintaining a right-of-way, including, without limitation, the treatment of roadsides, utilities, railroads, land on which crops are not planted, fence lines, structural perimeters and other similar areas.

(7) General pest control, industrial and institutional—The control of insect and vertebrate pests in, on or around industrial complexes, institutional complexes and dwelling units.

(8) Wood-destroying insects—The control of any wood-destroying insect, including, without limitation, termites, in, on or around any structure, including, without limitation, homes, storage sheds and warehouses, excluding fumigation pest control.

(9) Wildlife control—The application of various substances, including, without limitation, fumigants, for the control of wildlife pests on rangelands, forests, agricultural crops, idle cropland and land on which crops are not planted that is associated with the production of agricultural crops, excluding the control of wildlife pests in, on or around industrial complexes, institutional complexes or dwelling units or predatory pest control.

(10) Fumigation pest control:

(I) Commodity fumigation—The control of any pest that infests raw agricultural or processed commodities, animal feeds and commodity storage facilities where such commodities are held or stored, including, without limitation, tarpaulin fumigation and fumigation of grain elevators, rail cars, truck trailers, vans, aquatic vessels, air and sea containers, other static sealable enclosures, food processing plants, prepared bins, warehouses, beehives and other beekeeping equipment.

(II) Rodent burrow fumigation—Outdoor fumigation for the control of rodents and moles, including, without limitation, marmots, woodchucks, rats, mice, ground squirrels, voles, pocket gophers and chipmunks.

(III) Soil fumigation—The control of any pest that is present in the soil at the time of treatment, including, without limitation, plant-parasitic nematodes, soil-borne pathogens, weeds and insects.

(11) Regulatory—The use or supervision of use by an employee of a state or federal governmental agency of pesticides to control pests designated by a federal or state agency as actionable, of quarantine concern or noxious weeds pursuant to a government program.

(12) Sewer line root control—The control of plant roots in the maintenance of sewers.

(13) Public health—The control of any pest having medical or public health importance.

(14) Predatory pest control—The control of any predator in any habitat, including, without limitation, by using an M-44 device.

(e) Consultant:

(1) Pesticide Consultant - a person who provides technical information, solicits pest control services, makes recommendations for pesticide use, provides identification of pests, or solicits services or sales for any pesticides used.

3. This section must not be construed to prohibit a person or governmental agency or any employee thereof who has obtained the proper license from applying pesticides in a manner not prohibited by law.

4. As used in this section:

(a) "Pesticide classified for general use" has the meaning ascribed to it in NAC 555.610.

(b) "Unmanned aerial vehicle" means a powered aircraft of any size without a human operator aboard the vehicle and that is operated remotely or autonomously.

Justification: We see that tying consultants to existing category fields is not realistic since consultants provide a wide variety of services to their customers. Providing a single, comprehensive, category of licensing in their own field will better facilitate licensing of consultants in Nevada.

"Application device" means equipment, including, without limitation, handheld sprayers, truck-mounted sprayers and towed equipment, used during the course of applying pesticides.

"Primary container" means a container that is used by an applicator to store or transport concentrated pesticide.

“Secondary container” means a container that is used by an applicator to transport or store use dilutions of pesticide for eventual use by the applicator.

555.400 Except as otherwise provided in NAC 555.250 to 555.530, inclusive, or as specifically authorized in writing by the Director, each person engaged in the application of pesticide for hire shall:

1. Apply pesticides only in those categories of pest control for which he or she is licensed.

All other applicators must be under the immediate supervision of a primary principal, location principal, principal, demonstration and research specialist or operator who is qualified and currently licensed in the appropriate category.

2. Use only methods and equipment which are capable of performing the functions necessary to ensure the proper application of materials.

3. Operate only where climatic, pest and crop conditions are proper for controlling the pest for which the application is being made.

4. Keep pest control equipment, when in use, in good condition.

5. Except as otherwise provided in NAC 555.510, when measuring concentrated materials, use only devices which are accurately calibrated to the smallest unit in which the material is being weighed or measured.

6. Maintain a uniform mixture at all times, both in operating rigs and service rigs, when using a mixture of materials.

7. Perform all pest control work in a good and workmanlike manner, substantially confining the material applied to the premises where the land, crop, livestock, ornamental, soil or pest is being treated.

8. Thoroughly clean all equipment after use to prevent residues which may be injurious to crops, plants or livestock.

9. Provide storage for all undiluted pesticide material in a locked facility.

Servicepersons' kits, which contain insecticides, poison baits or concentrates must be handled with extreme caution and must not be left where children or other unauthorized persons might remove the contents. ~~A service container must be secured to prevent spills or damage to the container when being transported by a service vehicle.~~

While being transported, a secondary container or an application device used as a secondary container must be securely fastened to the service vehicle in which the container or device is being transported.

10. Pay for the cost of any cleanup resulting from pesticides spilled in the course of operations for pest control.

NAC 555.445

1. All **service** containers of **operators a licensee** working in the field of urban and structural pest control must bear the following abbreviated labels, securely attached to the containers:

(a) For a **service primary** container, ~~used to store or transport concentrated pesticide,~~ the:

- (1) Name, address and telephone number of the business.
- (2) Name of the pesticide.
- (3) Registration number assigned to the pesticide by the United States Environmental Protection Agency or by the Department.
- (4) Name and percentage of the active ingredient.
- (5) Precautionary (signal) word and symbol from the registered label.

(b) For a **service secondary** container, ~~used to store or transport diluted pesticide,~~ the:

- (1) Name, address and telephone number of the business.
- (2) Name of the pesticide, preceded by the word "diluted."
- (3) ~~Registration number assigned to the pesticide by the Environmental Protection Agency or the Department for the pesticide, preceded by the words "derived from."~~
- ~~(4)~~ Name and percentage of the active ingredient.
- ~~(5)~~ (4) Precautionary (signal) word from the registered label.

2. An application device used by a licensee working in the field of urban and structural pest control to store or transport 5 gallons or more of diluted liquid pesticide must bear an abbreviated label, securely attached to the application device, containing the:

- (a) Name, address and telephone number of the business;**
- (b) Name of the pesticide; and**
- (c) Name and percentage of the active ingredient.**

3. Except for the **service** containers described in subsection 1 and ~~the equipment for application,~~ **application devices**, all containers in which undiluted pesticide is stored must bear the original label, which must be conspicuous and clearly legible.

~~3.~~ **4.** A complete label must be carried in the vehicle for each pesticide in the vehicle.

Justification: By amending the existing requirements concerning the labeling of service containers and requiring new labeling on a primary container, secondary container or application device, the agency and industry feel this will clarify what pest control equipment used in pest control needs to be labeled.

Update 555.530 In accordance to the changes above.

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608

(Revised LCB# R???-16)

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.

- The NDA has spoken with the Nevada Pest Control Management Association and individual consultants alike. They support the clarifications proposed in this regulation. Information was available on the website of the Department of Agriculture, www.agri.nv.gov and posted at the following locations:

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

Nevada Department of
Agriculture
2300 East St. Louis Ave.
Las Vegas, NV 89104

Nevada Department of
Agriculture
4780 East Idaho St.
Elko, NV 89801

2. The manner in which the analyses was conducted.

- No analyses was conducted because industry supports this regulation.

3. The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:

- The economic impact is minimal, as the regulation is primarily clarification.

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.

- Does not apply, the regulation is primarily clarification.

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

- There is no cost to the agency.

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.

- There are no new or increased fees.

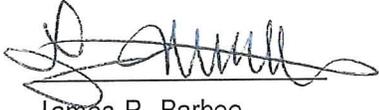
7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

- There is not more stringent or duplicative regulations proposed.

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

➤ This regulation is clarification and is supported by industry.

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 is accurate.

 Deputy Director

James R. Barbee
Director
Nevada Department of Agriculture