

Storey County Public Library, 95 South R Street, Virginia City, NV 89440
Tonopah Public Library, 167 Central Street, Tonopah, NV 89049
Washoe County Library, 301 South Center Street, Reno, NV 89501
White Pine County Library, 950 Campton Street, Ely, NV 89301
Nevada State Legislature Website: www.leg.state.nv.us

BRIAN SANDOVAL
Governor

STATE OF NEVADA

JAMES R. BARBEE
Director

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



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

MEMORANDUM

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

FROM: Robert Little, Plant Industry Division Administrator – (775) 353-3729
rlittle@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 Monday,
October 17, 2016, at 10:00 am.

DATE: September 14, 2016.

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 Monday, October 17, 2016, at 10:00 am.

Please post the agenda before 9:00am on Friday, September 16, 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.

Thank you.

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

OFFICE: _____

SIGNATURE: _____

DATE & TIME OF POST: _____

MEETING NOTICE AND AGENDA

Public Hearing
Notice of Intent to Act Upon a Regulation

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

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

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

DATE AND TIME: Monday, October 17, 2016, at 10:00 am

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 453A; *a regulation relating to implement the regulations required for the Department to perform its statutory functions regarding Medical Marijuana.; 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 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 NEVADA DEPARTMENT OF AGRICULTURE

LCB File No. R089-15

DIVISION OF PLANT INDUSTRY

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 Monday, October 17, 2016, 10:00 am, 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 453A of the Nevada Administrative Code. The proposal has been designated as File No. R089-15 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 453A; a regulation relating to implement the regulations required for the Department to perform its statutory functions regarding Medical Marijuana.; and providing other matters properly relating thereto.

1. The need for and the purpose of the proposed regulation or amendment
 - These proposed regulation simply specify the criteria used to determine the pesticides that are not legally prohibited from use on medical marijuana
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.
 - Pursuant to the 2015 Senate Bill No. 447 chapter 506 the NDA is required to develop a list of pesticides that are not legally prohibited for use on medical marijuana. The regulation identifies how pesticides are evaluated to qualify and fee's associated with request for evaluating new products for addition to the list.
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:
 - Does not apply. By state law, the use of any pesticide not included on the list would result in the destruction of the entire crop. The creation of a list minimizes that possibility
4. The estimated cost to the agency for enforcement of the proposed regulation.
 - The Department is participating in multiple staff meetings, industry meetings and inter-agency meetings. We have reviewed 75-100 pesticides and must review additional pesticides by request. We estimate our costs will be \$25,000 a year
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.
 - Does not apply
6. If the regulation is required pursuant to federal law, a citation and description of the federal law.
 - Does not apply
7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
 - Does not apply
8. Whether the proposed regulation establishes a new fee or increases an existing fee.
 - There are no provisions in SB 305 that reimburse the Department for the costs associated with this program

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Division administration staff determined that this regulation change will not have an effect 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: Robert Little, Division Administrator
(775) 353-3729
rlittle@agri.nv.gov

Written submissions must be received by the Nevada Department of Agriculture on or before 5:00 pm on October 12, 2016. 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

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
MICHAEL ROBERSON, *Senator, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
PAUL ANDERSON, *Assemblyman, Chairman*
Cindy Jones, *Fiscal Analyst*
Mark Krmptic, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
ROCKY COOPER, *Legislative Auditor* (775) 684-6815
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

September 1, 2016

Lynn Hettrick
Administration Division
Nevada Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Re: LCB File No. R089-15

Dear Ms. Hettrick:

Proposed regulation R089-15 of the State Department of Agriculture has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Asher Killian".

Asher Killian
Senior Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

AK/ceb
Enclosure

2016 SEP -6 AM 10:04

RECEIVED
STATE OF NEVADA
DEPARTMENT OF
AGRICULTURE

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

LCB File No. R089-15

August 31, 2016

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

AUTHORITY: §1, NRS 561.153, 586.401 and subsections 6 and 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550).

A REGULATION relating to the medical use of marijuana; establishing procedures for the development of a list of pesticides allowed to be used on medical marijuana; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a medical marijuana establishment to use a pesticide in the cultivation and production of marijuana if the pesticide meets certain requirements and requires the State Department of Agriculture to establish and publish a list of pesticides allowed to be used on medical marijuana. (Subsections 6 and 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550)) This regulation establishes procedures for the development of such a list.

Section 1. Chapter 586 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A pesticide manufacturer or medical marijuana establishment, or a representative thereof, may submit to the Department, on a form prescribed by the Department, a request for the Department to evaluate a pesticide for inclusion on the list of pesticides allowed to be used on medical marijuana described by subsection 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550) and, if the Department determines

that the pesticide satisfies the requirements of this section and subsection 6 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550), to include the pesticide on the list.

2. The Department will evaluate the active ingredients in a pesticide for inclusion on a list of pesticides allowed to be used on medical marijuana pursuant to subsections 6 and 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550), if the evaluation is recommended or requested, as appropriate, by:

(a) The staff of the Department;

(b) The Independent Laboratory Advisory Committee established pursuant to NAC 453A.666;

(c) A pesticide manufacturer; or

(d) A medical marijuana establishment or a representative thereof.

3. The Department will include a pesticide on a list of pesticides allowed to be used on medical marijuana pursuant to subsections 6 and 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550), if:

(a) The active ingredients in the pesticide satisfy the requirements of paragraph (a) of subsection 6 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550);

(b) The active ingredients in the pesticide are registered for use in this State;

(c) The pesticide is appropriately labeled for the intended use of the pesticide and satisfies the requirements of paragraphs (b) and (c) of subsection 6 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550);

(d) The pesticide satisfies the requirements of chapter 586 of NRS; and

(e) The label on the pesticide has been approved by the Environmental Protection Agency.

4. The Department will charge the following fees:

(a) For evaluating a pesticide requested to be added to the list of pesticides allowed to be used on medical marijuana pursuant to subsections 6 and 7 of section 27 of Senate Bill No. 447, chapter 506, Statutes of Nevada 2015, at page 3104 (NRS 586.550), \$75 per hour.

(b) For verifying that a pesticide is appropriately labeled for use in a medical marijuana establishment registered pursuant to chapter 453A of NRS, \$75 per hour.

(c) For participating in an application for registration of a pesticide to meet a special local need pursuant to 7 U.S.C. § 136v(c), \$300.

5. As used in this section, "medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608

(Revised LCB File # here if Appropriate)

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 provisions of the proposed regulations specify the criteria the Department will use to create a list of pesticides that are not legally prohibited from use on medical marijuana plants. No comment was solicited from small business because the use of any other pesticides would be a violation of federal or state law. The regulations were available on the website of the Department of Agriculture, www.agri.nv.gov and posted at the following locations:

Department of Agriculture
405 S. 21st Street
Sparks, NV 89431

Department of Agriculture
2300 McLeod Street
Las Vegas, NV 89104

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

2. The manner in which the analyses was conducted.

- No analyses was conducted because these regulations do not apply to small businesses.

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

- Does not apply. By state law, the use of any pesticide not included on the list would result in the destruction of the entire crop. The creation of a list minimizes that possibility.

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. Inclusion on the list is determined by federal labeling criteria.

5. **The estimated cost to the agency for enforcement of the proposed regulation.**
 - The Department is participating in multiple staff meetings, industry meetings and inter-agency meetings. We have reviewed 75-100 pesticides and must review additional pesticides by request. We estimate our costs will be \$25,000.00 a year.
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 provisions in SB 305 that reimburse the Department for the costs associated with this program.
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.**
 - Does not apply.
8. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**
 - No impact on small businesses. These proposed regulation simply specify the criteria used to determine the pesticides that are not legally prohibited from use on medical marijuana.

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.



James R. Barbee

Director

Nevada Department of Agriculture