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MEMORANDUM

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

FROM: Lynn Hettrick, Division Administrator – 775-353-3729
Lhettrick@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 Wednesday, November 29, 2017 at 9:00AM.

DATE: October, 19, 2017

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 Wednesday, November 29, 2017 at 9:00AM.

Please post the agenda for R065-17 before 9:00am on October 25, 2017 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

November 29, 2017 at 9:00AM

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 557; *a regulation relating to industrial hemp; requiring the State Department of Agriculture to create and publish a list of pesticides that are allowed for use on industrial hemp as part of an agricultural pilot program; authorizing the submission of a request to the Department for an evaluation of a pesticide; requiring the Department to charge and collect certain fees; 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. R065-17

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 Wednesday, November 29, 2017 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 557, of the Nevada Administrative Code. The proposal has been designated as File No. R065-17 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 557; a regulation relating to industrial hemp; requiring the State Department of Agriculture to create and publish a list of pesticides that are allowed for use on industrial hemp as part of an agricultural pilot program; authorizing the submission of a request to the Department for an evaluation of a pesticide; requiring the Department to charge and collect certain fees; and providing other matters properly relating thereto.*

1. The need for and the purpose of the proposed regulation or amendment
The regulation allows the Department to develop and publish a list of pesticides allowed to be used on industrial hemp. It also allows the Department to charge a fee to evaluate pesticides by request.
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.
Creates a method to evaluate and specify acceptable pesticides.
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
A list of acceptable pesticides benefits growers and the evaluation process provides a method to add products that may add to the economic production of hemp.
 - b) Both immediate and long-term effects
Growers benefit from having a list of acceptable products.
4. The estimated cost to the agency for enforcement of the proposed regulation.
Minimal cost to the agency. The proposed fees cover the cost of evaluations done by request.
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.
There is no duplication.
6. If the regulation is required pursuant to federal law, a citation and description of the federal law.
This regulation is not required by federal law.
7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.
These regulations is not more stringent than federal law.
8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The regulation adds a fee that is applicable only if a person requests that the Department evaluate a pesticide for inclusion on the acceptable list.

A concerted effort was made to determine the impact of the proposed regulation on small businesses. Staff for the environmental protection program and administration division determined that this regulation benefits growers.

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 November 23, 2017. 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

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

LCB File No. R065-17

September 18, 2017

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

AUTHORITY: §1, NRS 557.080, as amended by section 23 of Senate Bill No. 396, chapter 259, Statutes of Nevada 2017, at page 1348; NRS 561.105 and 561.153.

A REGULATION relating to industrial hemp; requiring the State Department of Agriculture to create and publish a list of pesticides that are allowed for use on industrial hemp as part of an agricultural pilot program; authorizing the submission of a request to the Department for an evaluation of a pesticide; requiring the Department to charge and collect certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Agriculture to adopt regulations establishing an agricultural pilot program to study the growth, cultivation or marketing of industrial hemp. (NRS 557.080) Existing law also requires each site used for growing or cultivating industrial hemp in this State to be certified by and registered with the State Department of Agriculture. (NRS 557.070) This regulation requires the Department to: (1) create and publish a list of pesticides that are allowed for use on industrial hemp as part of an agricultural pilot program; and (2) evaluate each active ingredient used in a pesticide to determine whether to include the pesticide on the list. If the Department includes a pesticide on the list, any person who uses the pesticide on industrial hemp is required to ensure that the pesticide is registered for use in this State and is appropriately labeled by the United States Environmental Protection Agency. A request for an evaluation of a pesticide may be submitted to the Department by certain persons and manufacturers. Finally, this regulation requires the Department to charge and collect fees for: (1) evaluating a pesticide; (2) verifying the labeling on a pesticide; and (3) submission to the Department of an application to register an additional use of a pesticide under certain federal laws.

Section 1. Chapter 557 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Department will create and publish a list of pesticides that are allowed for use on industrial hemp as part of an agricultural pilot program. Upon submission of a request for an evaluation of a pesticide pursuant to subsection 2, the Department will evaluate each active ingredient used in the pesticide to determine whether to include the pesticide on the list. If the Department includes a pesticide on the list, any person who uses the pesticide on any industrial hemp shall, before using the pesticide, ensure that the pesticide:

(a) Is registered for use in this State; and

(b) Is appropriately labeled by the United States Environmental Protection Agency.

2. A request for an evaluation of a pesticide pursuant to subsection 1 may be submitted to the Department by:

(a) An employee of the Department;

(b) Any committee or other entity specified by the Department;

(c) Any manufacturer of a pesticide; or

(d) A grower, handler or producer.

3. The Department will determine whether a pesticide may be included on the list created and published pursuant to subsection 1 based upon:

(a) The provisions of NRS 586.010 to 586.4065, inclusive, and any other applicable law or regulation; and

(b) The label approved for the pesticide by the United States Environmental Protection Agency.

4. The Department will charge and collect the following fees:

(a) For evaluating a pesticide pursuant to subsection 1.....\$75 per hour

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

(c) For submission to the Department of an application to register an additional use of a pesticide to meet a special local need pursuant to 7 U.S.C. § 136.....\$300

5. As used in this section:

(a) "Active ingredient" has the meaning ascribed to it in NRS 586.030.

(b) "Cultivation facility" has the meaning ascribed to it in NRS 453A.056, as amended by section 8 of Assembly Bill No. 422, chapter 540, Statutes of Nevada 2017, at page 3679.

(c) "Industrial hemp" has the meaning ascribed to it in NRS 557.040.

(d) "Pesticide" has the meaning ascribed to it in NRS 586.195.

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608

(Revised LCB File# R065-17)

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 contacted every industrial hemp grower involved in a research trial that may be impacted by this clarification and everyone who has expressed interest in the program. The regulations are available on the website of the Department of Agriculture, www.argi.nv.gov and posted at the following locations.

NDA office Locations:

Department of Agriculture
405 S. 21st 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.

No analyses was conducted because these regulations allow for a list of pesticides legal for use on hemp; A benefit to growers.

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

Does not apply directly to the development of a pesticide list. 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 the 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. Additionally, the impact is insignificant.

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

There will be minimal costs, which will be covered by the fees.

- 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.**

This regulation will impose a new fee that has been calculated to cover the costs of administering the services. We estimate to collect \$300.00 per year for the inclusion of a pesticide list.

- 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; Not Duplicative.

- 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 the use of industrial hemp.

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.


James R. Barbee

Director

Nevada Department of Agriculture