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## DEPARTMENT OF AGRICULTURE

405 South 21<sup>st</sup> 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](mailto:rlittle@agri.nv.gov) Fax Number 775-353-3661

SUBJECT: Posting of Agenda for Workshop Scheduled for Monday, October 17, 2016, at 1:30 pm.

DATE: September 29, 2016

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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 1:30 pm.

Please post the agenda for NAC 555 – Pesticide used on crops grown for seed, 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. 21<sup>st</sup> 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 1:30 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 Pesticide used on crops grown for seed, 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. 21<sup>st</sup> 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. 21<sup>st</sup> 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. 21<sup>st</sup> 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 21<sup>st</sup> 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 1:30 pm. The workshop will be video conferenced between the following offices:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> 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:

“Pesticide used on crops grown for seed“

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 21<sup>st</sup> Street  
Sparks, NV 89431  
(775) 353-3670  
[rtietjen@agri.nv.gov](mailto: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 21<sup>st</sup> 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](http://www.leg.state.nv.us)  
Nevada Public Notice website: [www.notice.nv.gov](http://www.notice.nv.gov)  
Nevada Department of Agriculture Website: [www.agri.nv.gov](http://www.agri.nv.gov)

Nevada Department of Agriculture  
Seed Division  
NAC 555

Pesticide Use on Crops Grown For Seed

*Pesticide Use on Crops Grown For Seed*

*1. For purposes of pesticide product registration, labeling, distribution and use, certain crops when grown exclusively for seed production, with the sole intent of the seed being planted, or with the sole intent of the seed being processed to produce nonedible industrial or nonedible cosmetic oil, shall be considered nonfood/non-feed sites. If certain conditions are met as specified in this rule, a pesticide residue tolerance is not required to obtain a pesticide registration on the crop. These crops include, but are not limited to:*

Alfalfa	Clover	Mizuna
Alliums	Collards	Mustard (all)
Arugula	Cucumber	Parsley
Beet (garden and sugar)	Dill	Parsnip
Birdsfoot Trefoil	Drug and Medicinal Crops	Radish (except daikon)
Broccoli (all)	Endive	Rapeseed
Brussel Sprouts	Escarole	Rutabaga
Burdock	Herbs (culinary)	Spinach
Cabbage (all)	Herbs (Dietary Supplement)	Squash, Summer
Carrot	Kale (all)	Squash, Winter (not pumpkin)
Cauliflower	Kohlrabi	Swiss Chard
Celery	Lettuce	Turnip
Cilantro/Coriander	Meadowfoam	Vetch

*2. Certain crops which may be grown for seed production, shall be considered food/feed sites, and not eligible to obtain a nonfood/nonfeed status. These crops include, but are not limited to:*

*Cereal Grains: Including barley, buckwheat, corn, millet, oats, rye, sorghum, triticale, wheat;  
Legume vegetables (succulent and dried): including peas, beans, chickpeas, and lentils;  
Garlic;  
Potatoes;  
Pumpkins;  
Sunflower.*

*3. If the Department receives an application for a FIFRA Section 24(c) registration or a FIFRA Section 18 authorization, and the pesticide product is intended to be used on a seed crop not listed in (1) or (2) above, additional information must be provided to the Department to support a nonfood/nonfeed designation. The Department shall make or deny the nonfood/nonfeed designation based upon evaluation of available information.*

4. In order for a pesticide product to be registered, labeled, distributed and used on a crop grown exclusively for seed production, as identified in (1) above, the following conditions must be met:

A. The seed conditioner shall maintain a record of each pesticide applied to the seed crop for which there is no established pesticide residue tolerance. This record shall include the date of each application, and type of pesticide utilized.

B. No seed produced in Nevada utilizing a pesticide product for which there is no established pesticide residue tolerance on the seed crop may be distributed for human or animal consumption.

C. All screening resulting from a seed crop identified in (1) above shall be disposed of in such a manner that the screenings cannot be distributed or used for feed or feed purposes.

D. No portion of the seed crop to which a pesticide product having no established pesticide residue tolerance for the seed crop has been applied shall be used or distributed for foods or feed.

1) This restriction pertains to, but is not limited to: green chop, hay, pellets, meal, whole seed, cracked seed, straw, roots, bulbs, foliage or seed screenings, and to the grazing of the crop field, stubble or regrowth.

E. The seed conditioner shall keep records of all seed screening disposals for at least 3 years from the date of disposal and shall provide these records to the Department upon request.

F. The disposal records required in section (e) above shall consist of documentation verifying shipment to the controlled site where disposal occurred, and shall identify each of the following:

- 1) The name, if applicable, and location of the disposal site;
- 2) Method of disposal (i.e. burial, composting, or incineration)
- 3) Amount and type of material disposed of; and
- 4) The date of shipment from the disposal site.

G. Administrative rules enacted and administered by the Nevada Department of Environmental Quality, specify that any portion of a seed crop grown in this state, its foliage, seed chaff, screenings or other crop by-products treated with a pesticide according to label instructions shall not be considered a hazardous waste. Therefore, the requirements for disposal of hazardous waste shall not apply to the disposal of a pesticide treated seed crop or its by-products.

H. Refusing or neglecting to prepare and maintain the records required to be kept by 4(a) and 4(e) of this section shall be considered a prohibited act.

I. Making false, misleading or fraudulent records required by 4(a) and 4(e) of this section shall be considered a prohibited act.

J. Any seed from a field treated with a pesticide product having no pesticide residue tolerance shall bear specific and conspicuous container labeling, or if shipped in bulk, on the shipment invoice or bill of lading. Said labeling shall contain the following statement:

*"This seed was produced using one or more products for which the United States Environmental Protection Agency has not established pesticide residue tolerances. This seed, in whole, as sprouts, or in any form, may not be used for human consumption or animal feed. Failure to comply with this condition may violate requirements of the Federal Food and Drug Administration, the Nevada Department of Agriculture and other regulatory agencies."*

*K. All possessors of seed labeled as specified in (J) above, including brokers and dealers, shall prepare and maintain records which include a copy of the seed labeling.*

*L. The conditions contained in (A) through (K) of this rule shall not apply to a seed crop, or its by-products, grown in Nevada under the following conditions:*

- 1. Having no pesticide(s) applied to it; or*
- 2. Utilizing only pesticides registered and labeled for application to the crop, and having established residue tolerances for the specific crop and its by-products.*

*M. The requirements specified in (J) and (K) of this rule shall not apply if the seed is sold or distributed in consumer packets weighing less than 5.0 oz., and is intended for retail sale and noncommercial use.*

*N. The restrictions contained in (4)(d) of this rule may be modified by the Department if residue data are provided, and the data and modification are considered acceptable by both the Department and the U.S. Environmental Protection Agency.*

*O. If the conditioner has not been provided information as to what pesticides were applied to a field producing a seed crop specified in (1) above, the field will be considered to have been treated with a pesticide not having a tolerance. In such situations, the seed conditioner will be exempt from the requirements of 4(a) above. All other requirements of 4(b) through (9) shall apply.*

*P. Any seed grown in Nevada, and conditioned in another state which has a labeling requirement for seed conditioned in that state similar to (J) above, shall be exempt from the labeling requirements contained in (J) above. Seed exported from Nevada under conditions specified in this subsection must be labeled as required in (J) above by the grower, broker or other responsible party.*

*Q. Any "treated seed" as defined in NRS 587.061 shall be exempt from the labeling requirements contained in (J) above. Prior to treatment, the seed must be labeled as required in (J) above.*

*Statute Authority: Director pursuant to NRS 555.270, 555.380, 555.400*

**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 contacted all known producers of crops grown for seed. Every producer requested that we proceed with this regulation. Information was available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov) and posted at the following locations:

Nevada Department of  
Agriculture  
405 South 21<sup>st</sup> 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.**

- This regulation is being proposed at the request of the growers of crops for seed.

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

- These regulations will have a positive economic impact.

**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.

**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.**

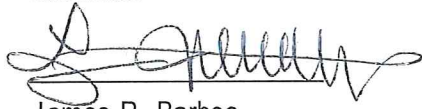
- Does not apply, this regulation simply clarifies the requirements for growers to market seed.

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

- The NDA concluded that this will have beneficial impact for growers of crops for seed and we are proposing this regulation at their request.



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