

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

**LCB File No. R048-21**

November 15, 2021

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

AUTHORITY: § 1; NRS 586.237; §§ 2 and 3, NRS 586.237 and 586.406, as amended by section 1 of Assembly Bill No. 74, chapter 40, Statutes of Nevada 2021, at page 170; § 4, NRS 586.237 and 586.403.

A REGULATION relating to pesticides; defining certain terms relating to pesticide applicators; revising certain requirements relating to restricted-use pesticides; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Director of the State Department of Agriculture to adopt regulations governing the application and distribution of certain pesticides. (NRS 586.237) Existing regulations prohibit a person from applying or using a restricted-use pesticide unless the person is a certified applicator or a person under the direct supervision of a certified applicator. (NAC 586.018) Assembly Bill No. 34 of the 2021 Legislative Session replaced the term “certified applicator” with the terms “authorized commercial applicator,” “non-private applicator” and “private applicator.” (Section 1 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 150, NRS 555.2618, as amended by section 8 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 153, NRS 555.2681, as amended by section 11 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 154) **Section 1** of this regulation defines the terms “authorized commercial applicator,” “non-private applicator” and “private applicator” and **sections 2-4** of this regulation replace the term “certified applicator” in existing regulations with these terms.

**Section 3** of this regulation requires a person under the direct supervision of an authorized commercial applicator, non-private applicator or private applicator to meet certain requirements of federal law relating to the use of restricted-use pesticides (40 C.F.R. §171.201).

**Section 1.** NAC 586.005 is hereby amended to read as follows:

586.005 As used in this chapter, unless the context otherwise requires:

1. *“Authorized commercial applicator” has the meaning ascribed to it in section 1 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 150.*

2. “Department” means the State Department of Agriculture.

~~[2.]~~ 3. “Director” means the Director of the Department.

~~[3.]~~ 4. *“Non-private applicator” has the meaning ascribed to it in NRS 555.2618, as amended by section 8 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 153.*

5. *“Private applicator” has the meaning ascribed to it in NRS 555.2681, as amended by section 11 of Assembly Bill No. 34, chapter 34, Statutes of Nevada 2021, at page 154.*

6. “Restricted-use pesticide” has the meaning ascribed to it in NRS 586.205. The term includes any pesticide that contains any amount of strychnine or a salt of strychnine.

**Sec. 2.** NAC 586.017 is hereby amended to read as follows:

586.017 1. A restricted-use pesticide must only be distributed or sold by a person registered to sell restricted-use pesticides.

2. A person registered to sell restricted-use pesticides shall only distribute or sell a restricted-use pesticide to:

(a) ~~[A-certified]~~ *An authorized commercial applicator, non-private applicator or private applicator* with the appropriate *license or* certification to use or supervise the use of the type and quantity of the restricted-use pesticide; or

(b) The authorized representative of ~~[a-certified]~~ *an authorized commercial applicator, non-private applicator or private applicator* with the appropriate *license or* certification to use or supervise the use of the type and quantity of the restricted-use pesticide.

*3. Each person who is registered to sell restricted-use pesticides shall maintain records in accordance with the requirements of NRS 586.406, as amended by section 1 of Assembly Bill No. 74, chapter 40, Statutes of Nevada 2021, at page 170.*

**Sec. 3.** NAC 586.018 is hereby amended to read as follows:

586.018 A person shall not apply or otherwise use a restricted-use pesticide unless the person is:

1. ~~{A-certified}~~ *An authorized commercial applicator, non-private applicator or private applicator with the appropriate **license or** certification to use the restricted-use pesticide; or*
2. A person under the direct supervision of ~~{a-certified}~~ *an authorized commercial applicator, non-private applicator or private applicator who holds the appropriate **license or** certification to use the restricted-use pesticide ~~{}~~ and the person under direct supervision meets the requirements of 40 C.F.R. § 171.201.*

**Sec. 4.** NAC 586.040 is hereby amended to read as follows:

586.040 1. No person may sell, possess or use sodium fluoroacetate (also known as “Compound 1080” and “1080”), other than:

- (a) ~~{A-certified}~~ *An authorized commercial applicator, non-private applicator or private applicator;*
  - (b) A research or chemical laboratory in its respective field; or
  - (c) A wholesaler or jobber of pesticides for sale to the persons specified in paragraphs (a) and (b), or for export.
2. Each such person must have a special permit for possession and use of sodium fluoroacetate and shall notify the ~~{Executive}~~ Director not less than 24 hours before dispensing or using this pesticide.