

**PROPOSED REGULATION OF THE  
NEVADA DEPARTMENT OF AGRICULTURE**

**LCB File No. [REDACTED]**

**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 588 of Nevada Administrative Code. A workshop has been set for Monday, May 16, 2016, 9:30 am at:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, Nevada, 89431

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:

“ update fertilizer registration provisions”

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

Robert Little  
Interim Administrator Plant Industry Division  
Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431  
(775) 353-3729  
[rlittle@agri.nv.gov](mailto:rlittle@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 St Louis Ave  
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)

BRIAN SANDOVAL  
Governor

STATE OF

JIM BARBEE

Director

Sparks Office:  
2150 Frazer Avenue  
Sparks NV 89431-5566  
(775) 688-1166  
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Las Vegas Office:  
2300 St Louis Ave  
Las Vegas NV 89104-4314  
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DEPARTMENT OF  
AGRICULTURE  
405 South 21<sup>st</sup> Street  
Sparks, Nevada 89431

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, Interim Plant Industry Division Administrator – 775-353-3729  
[rlittle@agri.nv.gov](mailto:rlittle@agri.nv.gov) Fax Number 775-353-3638

SUBJECT: Posting of Agenda for Workshop Scheduled for Monday, May 16, 2016, 9:30 am.

DATE: April 21, 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, May 16, 2016, 9:00 am.

Please post the agenda before 9:00am on April 29, 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 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 St Louis Ave  
Las Vegas, NV 89104  
Phone 702-668-4590

DATE AND TIME: Monday, May 16, 2016 at 9:30 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 588 a regulation relating to Updating fertilizer registration provisions 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 St Louis Ave, Las Vegas, NV 89104, State of Nevada Capital Building, Carson City NV, State Library and Archives, Carson City

## CHAPTER 588.- COMMERCIAL FERTILIZERS AND AGRICULTURAL MINERALS

<u>588.005</u>	Definitions.
<u>588.007</u>	“Phosphoric acid” interpreted.
<u>588.010</u>	Responsibility for tonnage fees and reports.
<u>588.020</u>	Tonnage sales reports.
<u>588.025</u>	Tonnage fees for offer to sell, sale or distribution of commercial fertilizers or agricultural minerals.
<u>588.030</u>	Computation of tonnage fees for liquid fertilizers.
<u>588.035</u>	Fee for registration of brand and grade of commercial fertilizer or agricultural mineral.
<u>588.037</u>	Fees for registration of seller, distributor or deliverer of restricted-use commercial fertilizer or agricultural mineral.
<u>588.040</u>	Agricultural minerals: Tolerances for guaranteed total percentages.
<u>588.050</u>	Additional plant nutrients: Claims, registration and guarantees.
<u>588.060</u>	Exemption by weight.
<u>588.065</u>	Exemption of commercial fertilizers and agricultural minerals not used for agricultural purposes.
<u>588.070</u>	Exemption of nitrogen, phosphoric acid and soluble potash in certain uses.
<u>588.080</u>	Custom-mixed fertilizers.
<u>588.090</u>	Restricted-use commercial fertilizers or agricultural minerals: Classification.
<u>588.100</u>	Restricted-use commercial fertilizers or agricultural minerals: Identification of buyer.
<u>588.110</u>	Restricted-use commercial fertilizers or agricultural minerals: Availability of record of sale to Director.
<u>588.120</u>	Sale or distribution of adulterated commercial fertilizer or agricultural mineral.
<u>588.130</u>	Adoption by reference and revision of “Statement of Uniform Interpretation and Policy No. 25.”.

**NAC 588.005 Definitions. (NRS 561.105)** As used in this chapter, unless the context otherwise requires:

1. “Custom-mixed fertilizer” means a mixture of two or more registered commercial fertilizers created at the request of a buyer to satisfy the needs of a particular soil or crop.

2. “Department” means the State Department of Agriculture.  
(Supplied in codification; A by Bd. of Agriculture, 2-20-96)

**NAC 588.007 “Phosphoric acid” interpreted. (NRS 561.105)** For purposes of the registration and labeling of fertilizers, the Director will interpret the term “phosphoric acid” as used in chapter 588 of NRS to have the same meaning as the term “phosphate.”

(Added to NAC by Bd. of Agriculture, eff. 8-9-94)

**NAC 588.010 Responsibility for tonnage fees and reports. (NRS 588.164, 588.210, 588.295)** The registrant is responsible for tonnage fees and reports. If the registrant does not have authority over distribution or sales of the registered brand or brands, he shall notify the Department in writing of the person responsible for reporting tonnages and payment of fees.

**NAC 588.010 Responsibility for tonnage fees and reports. (NRS 588.164, 588.210, 588.295)** The registrant is responsible for tonnage fees and reports unless the reporting and fees have been assigned to another by contract pursuant to NRS 588.210 (AB 77).

**NAC 588.020 Tonnage sales reports. (NRS 588.164, 588.210, 588.295)**

1. A tonnage report on sales of commercial fertilizers and agricultural minerals, together with the tonnage fee, must be submitted quarterly on or before the 15th day of the following month (15th day of April, July, October and January).

2. ~~Reports must be made on forms supplied by, and checks for the tonnage fee must be made payable to, the Department. A quarterly fee in an amount of \$1 or less need not be paid.~~ If a registrant does not submit the amount required pursuant to this subsection on or before 15 days after the date on which it is due, the registrant must submit, in addition to that amount, a late fee in the amount of 50 percent of the amount due.

**NAC 588.025 Tonnage fees for offer to sell, sale or distribution of commercial fertilizers or agricultural minerals. (NRS 561.105, 588.210)**

1. Except as otherwise provided in NRS 588.210 and 588.215 and NAC 588.030, a person who offers for sale, sells or distributes in this State commercial fertilizers or agricultural minerals, or both, shall pay to the Department **the greater of** the following fees:

(a) For quarterly sales or distribution of commercial fertilizers **or agricultural minerals** of 20 tons or more, ~~25~~ **30** cents per ton; ~~and or~~

(b) **The amount of Five dollars per quarter.** ~~For agricultural minerals:~~  
~~—(1) If sold in packages, for quarterly sales or distribution of 20 tons or more, 25 cents per ton; and~~

~~—(2) If sold in bulk, for quarterly sales or distribution of 100 tons or more, 5 cents per ton.~~

~~—2. No fees are required to be paid for quarterly sales or distribution of commercial fertilizers or agricultural minerals in quantities smaller than those established in subsection 1.~~

**NAC 588.030 Computation of tonnage fees for liquid fertilizers.** (NRS 588.164, 588.210) Tonnage fees on liquid fertilizer are computed at the rate of 8 pounds per gallon.

[Dep't of Agriculture, No. 88.03, eff. 2-4-63]

**NAC 588.035 Fee for registration of brand and grade of commercial fertilizer or agricultural mineral.** (NRS 588.164, 588.170) An application for the registration of a brand and grade of commercial fertilizer or agricultural mineral must be accompanied by a registration fee of ~~\$60~~ \$80 for each combined registration of brand and grade.

**NAC 588.037 Fees for registration of seller, distributor or deliverer of restricted-use commercial fertilizer or agricultural mineral.** (NRS 561.105, 588.295)

1. The annual fee to register with the Director pursuant to NRS 588.295 to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral is \$25.

2. Except as otherwise provided in NRS 588.295, the penalty fee if a person fails to renew his previous registration on or before February 1 next following its expiration is \$25.

(Added to NAC by Bd. of Agriculture by R035-04, eff. 11-13-2006)

**NAC 588.040 Agricultural minerals: Tolerances for guaranteed total percentages.** (NRS 588.164) The following tolerances are established for agricultural minerals. Whenever the analysis shows a deficiency in any constituent of not more than 5 percent of the guaranteed total percentage of such constituent, it is considered as meeting the requirements of this chapter.

[Dep't of Agriculture, No. 88.04, eff. 2-4-63]

**NAC 588.050 Additional plant nutrients: Claims, registration and guarantees. (NRS 588.164)**

1. Additional plant nutrients, besides the primary nutrients, nitrogen, phosphorus and potassium, when mentioned or claimed on the label or container, must be registered and guaranteed. Guarantees must be made on the elemental basis. Sources of the elements guaranteed must be shown on the application for registration. Except as otherwise provided in subsection 3, when claims for such nutrients are made on the label, container or application for registration, the minimum percentages which will be accepted for registration are as follows:

Element	Percentage
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

2. Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use of the fertilizer must be furnished with the application for registration. Warning or caution statements are required on the label for any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum. Any of the above-listed elements which are guaranteed must appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

3. The provision set forth in subsection 1, which establishes the minimum percentages of additional plant nutrients which will be accepted for registration of a brand and grade of commercial fertilizer or agricultural mineral, does not apply to a commercial fertilizer or agricultural mineral that is sold, offered for sale or distributed as a ready-to-use or similar product, including, without limitation, a foliar fertilizer, horticultural growing medium or hydroponic fertilizer.

[Dep't of Agriculture, No. 88.05, eff. 2-4-63]—(NAC A by R242-03, 11-13-2006)



**NAC 588.060 Exemption by weight. (NRS 588.164)** Commercial fertilizers and agricultural minerals in packages of less than 1 pound are exempt from the provisions of this chapter.

[Dep't of Agriculture, No. 88.06, eff. 2-4-63]

**NAC 588.065 Exemption of commercial fertilizers and agricultural minerals not used for agricultural purposes. (NRS 588.164, 588.215)**

1. For the purpose of exempting commercial fertilizers and agricultural minerals that are not used for agricultural purposes from the license fees and reporting requirements of NRS 588.210, the Director interprets "agricultural" as used in NRS 588.215 to include "horticultural."

2. As used in this section, "horticultural" includes, without limitation:

- (a) The cultivation of plants for ornamental or decorative purposes; and
- (b) The maintenance of lawns or turf.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)

**NAC 588.070 Exemption of nitrogen, phosphoric acid and soluble potash in certain uses. (NRS 588.164)** Nitrogen, phosphoric acid and soluble potash which are used singly or in combination as a coating over viable seed or as a component of strips, carpets or similar seed specialties to stimulate sprouting and which constitute 1 percent or less of the coated seed or seed specialties are not agricultural minerals or commercial fertilizers under the provisions of chapter 588 of NRS.

(Added to NAC by Dep't of Agriculture, eff. 12-9-81)

**NAC 588.080 Custom-mixed fertilizers. (NRS 561.105)** A custom-mixed fertilizer is not required to be registered with the Department, but an analysis of the custom-mixed fertilizer must be guaranteed on the delivery statement or the label on the container holding the fertilizer.

(Added to NAC by Bd. of Agriculture, eff. 2-20-96)

**NAC 588.090 Restricted-use commercial fertilizers or agricultural minerals: Classification. (NRS 588.164)** The following commercial fertilizers or agricultural minerals, if sold, offered for sale or distributed as single nutrients, not in combination with any other commercial fertilizer or agricultural mineral, are classified, pursuant to NRS 588.164, as restricted-use commercial fertilizers or agricultural minerals:

- 1. Ammonium nitrate if the nitrogen content is 23 percent or greater.
- 2. Anhydrous ammonia.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)

**NAC 588.100 Restricted-use commercial fertilizers or agricultural minerals: Identification of buyer. (NRS 588.164, 588.295)**

1. A person required by NRS 588.295 to maintain a record of the sale of restricted-use commercial fertilizers or agricultural minerals shall include in that record a unique number that provides positive identification of the buyer.

2. The unique number must be obtained from an identification document that:

(a) Is issued by a governmental authority; and

(b) Includes a photograph of the buyer.

3. The person maintaining the record shall visually inspect the original or a photostatic or other copy of the identification document:

(a) Before the first sale or delivery to a buyer; and

(b) If subsequent sales or deliveries are made to that buyer, not less than annually thereafter.

4. As used in this section, "buyer" means the person to whom the restricted-use commercial fertilizer or agricultural mineral is sold or delivered.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)

**NAC 588.110 Restricted-use commercial fertilizers or agricultural minerals: Availability of record of sale to Director. (NRS 588.164, 588.295)** A person required by NRS 588.295 to maintain a record of the sale of restricted-use commercial fertilizers or agricultural minerals shall make the record available to the Director upon request.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)

**NAC 588.120 Sale or distribution of adulterated commercial fertilizer or agricultural mineral. (NRS 588.164)**

1. A person shall not sell, offer for sale or distribute a commercial fertilizer or agricultural mineral if it is adulterated.

2. For the purposes of this section, and except as otherwise provided in subsection 3, a commercial fertilizer or agricultural mineral is adulterated if:

(a) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when:

(1) It is applied in accordance with the directions for use on the label or tag; or

(2) Adequate warning statements or directions for use which may be necessary to protect beneficial plant life, animals, humans, aquatic life, soil or water are not shown on the label or tag;

(b) Its actual composition differs from that set forth on the label or tag; or

(c) It contains unwanted crop seed or weed seed.

3. A commercial fertilizer or agricultural mineral is not adulterated solely because it contains one or more additional plant nutrients as set forth in NAC 588.050.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)

**NAC 588.130 Adoption by reference and revision of "Statement of Uniform Interpretation and Policy No. 25." (NRS 588.164)**

1. Except as otherwise provided in subsection 2, the Director hereby adopts by reference "Statement of Uniform Interpretation and Policy No. 25" in the form most recently published by the Association of American Plant Food Control Officials in its *Official Publication*, unless the Director gives notice pursuant to this section that the most recent revision is not suitable for this State.

2. Any reference in "Statement of Uniform Interpretation and Policy No. 25" to "section 13(a) of the Uniform State Fertilizer Bill" shall be deemed to be a reference to "NAC 588.120."

3. If "Statement of Uniform Interpretation and Policy No. 25" is revised, the Director will, not later than 6 months after the date of the publication of the revision, determine, after notice and hearing, whether the revision is suitable for this State. Not less than 30 days after the Director makes his determination, he will:

(a) If the Director determines the revision is suitable, file one copy of the revision with the Secretary of State and one copy with the State Library and Archives Administrator, and make at least one copy available for public inspection with his regulations; or

(b) If the Director determines that the revision is not suitable, file one copy of the determination with the Secretary of State, the State Library and Archives Administrator and the Legislative Counsel, and make at least one copy available for public inspection with his regulations.

4. The *Official Publication*, which contains "Statement of Uniform Interpretation and Policy No. 25," is available from the Association of American Plant Food Control Officials, P.O. Box 33508, Raleigh, North Carolina 27636-3508, for the price of \$30.

(Added to NAC by Dep't of Agriculture by R242-03, eff. 11-13-2006)