

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, 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 9:00am

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 9:00am

Please post the agenda before 9:00am on September 17, 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 9:00a,

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 commercial fertilizers and agricultural minerals; 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. R147-16

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, 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 588, of the Nevada Administrative Code. The proposal has been designated as File No. R147-16, 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 588; *a regulation relating to commercial fertilizers and agricultural minerals; and providing other matters properly relating thereto.*

1. The need for and the purpose of the proposed regulation or amendment
 - The purpose of the proposed amendment to NAC 588 is to simplify tonnage reporting to make it more uniform and accountable.
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.
 - This proposed amendment will make the quarterly tonnage fees for commercial fertilizers and agricultural minerals uniform which has historically been difficult to decipher and has been disproportionate to the two types of producers. It will also allow for our internal accountability to become more efficient in regards to companies who do not owe quarterly fees on tonnage but are required to send in a report.
3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
 - This regulation is in line with neighboring states and imposes little net economic impact on small business.
4. The estimated cost to the agency for enforcement of the proposed regulation.
 - No additional cost is projected for enforcement.
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.
 - This regulation proposes a new fee for quarterly sales or distribution of commercial fertilizers or agricultural minerals in quantities smaller than 20 tons. It also proposes fee increases for product registration, tonnage reports submitted 15 days after due date and makes quarterly sales or distributions of commercial fertilizers and agricultural minerals sales over 20 tons the same.

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 have little 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, 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
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

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 Krmpotic, *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

August 23, 2016

Ruth Tietjen
Administrative Assistant
Plant Industry Division
Nevada Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Re: LCB File No. R147-16

Dear Ms. Tietjen:

A proposed regulation R147-16 of the State Board 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 that reads "Jessica Dummer".

Jessica F. Dummer
Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

JFD/slj
Enclosure

2016 AUG 35 AM 10: 07
RECEIVED
STATE OF NEVADA
DEPARTMENT OF
AGRICULTURE

**PROPOSED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

LCB File No. R147-16

August 23, 2016

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

AUTHORITY: §1, NRS 561.105 and 588.210; §2, NRS 588.210; §3, NRS 588.164 and 588.170.

A REGULATION relating to fees; deleting provisions which waive certain quarterly tonnage fees for sales of commercial fertilizers and agricultural minerals; imposing a fee for failure to pay the tonnage fees when due; increasing the tonnage fees for the sale, distribution or offering for sale of commercial fertilizers and agricultural minerals; increasing the fee for registering commercial fertilizers and agricultural minerals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the registrant of each brand of commercial fertilizer or agricultural minerals to pay certain fees to the State Department of Agriculture for each ton sold and to report to the Department the total tonnage sold, unless the responsibility for reporting and payment has been assigned to another person by contract. (NRS 588.210) Existing law and regulations require that tonnage sales reports be made using forms prepared by the Department for that purpose. (NRS 588.210; NAC 588.020) Existing law also requires that quarterly tonnage fees be paid to the Department at a rate established by regulation of the State Board of Agriculture. (NRS 588.210) The regulations establishing the tonnage fee must specify the amount of the fee for each ton of agricultural minerals that is sold in packages and the amount of the fee for each ton of those minerals that is sold in bulk. (NRS 588.210) Under existing regulations, the fee for quarterly sales or distribution of 20 tons or more of commercial fertilizers is 25 cents per ton. The fee for quarterly sales or distribution of 20 tons or more of agricultural minerals sold in packages is 25 cents per ton. The fee for quarterly sales or distribution of 100 tons or more of agricultural minerals sold in bulk is 5 cents per ton. No fee is currently required for quarterly sales or distribution of commercial fertilizer or agricultural minerals in quantities smaller than the foregoing amounts. (NAC 588.025) Existing regulations also require a person applying for the registration of a brand and grade of commercial fertilizer or agricultural mineral to pay a registration fee of \$60 for each combined registration of brand and grade. (NAC 588.035)

Section 1 of this regulation removes duplicative provisions requiring that tonnage sales reports be submitted on forms supplied by the Department and also removes a provision waiving tonnage fees when the amount owed is \$1 or less. **Section 1** also imposes an additional fee which must be paid to the Department if the tonnage fee is not paid within 15 days after the date that the fee is due.

Section 2 of this regulation revises the quarterly fee for sales or distribution of commercial fertilizers or agricultural minerals of 20 tons or more to 30 cents per ton, regardless of whether the commercial fertilizers or agricultural minerals are sold in packages or in bulk. **Section 2** also provides that the fee for quarterly sales or distribution of commercial fertilizers or agricultural minerals of less than 20 tons is \$5 per quarter. **Section 3** of this regulation raises the fee for registering a brand and grade of commercial fertilizer or agricultural mineral to \$80 for each combined registration of brand and grade.

Section 1. NAC 588.020 is hereby amended to read as follows:

588.020 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 the tonnage fee required pursuant to subsection 1 is not submitted within 15 days after the date on which the tonnage fee is due, the person responsible for paying the tonnage fee must pay, in addition to the tonnage fee, a fee in the amount of 50 percent of the tonnage fee.*

Sec. 2. NAC 588.025 is hereby amended to read as follows:

588.025 ~~{H.}~~ 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 following fees:

~~{(a)}~~ 1. For quarterly sales or distribution of commercial fertilizers *or agricultural minerals* of 20 tons or more, ~~{25}~~ *whether sold in packages or in bulk, 30 cents per ton* ~~}; and~~

~~—(b) 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.]~~

; or

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.}~~

For quarterly sales or distribution of commercial fertilizers or agricultural minerals of less than 20 tons, whether sold in packages or in bulk, \$5 per quarter.

Sec. 3. NAC 588.035 is hereby amended to read as follows:

588.035 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.

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.**

A notice of workshop and copy of the proposed changes was sent by email to all current Nevada fertilizer registrants. The notice and proposed changes were also sent to all county libraries, and all other recipients required in the State Administrative Manual. The notice and proposed changes were also posted at all three NDA offices listed below and on our website (www.agri.nv.gov). Comments were requested in the notice however none were received and no one attended the public workshop.

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.**

Given that we did not received any comments nor was there any participation at the workshop, we determined that the impact to business in insignificant.

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

There will be a small fiscal impact on businesses regulated by this statute.

- 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.**

There is no method to reduce the impact. The agency is fee based and must implement small increases in fees to offset the costs to the agency to conduct the program.

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

Increase cost to agency is minimal.

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.

The proposed fees will generate approximately \$100,000 in increased revenue.

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.

We concluded that the regulation has no significant impact because we did not receive comments or participation.

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