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**PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE**  
**NOTICE OF INTENT TO ACT UPON A REGULATION**  
**AND**  
**HEARING AGENDA**

Notice of Hearing for the Adoption of Permanent Regulations Nevada Administrative Code Chapter 587.

**LCB File No. R099-20P**

The Nevada Department of Agriculture (NDA) will hold a public hearing at 10:00 a.m. on March 10, 2022. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to Chapter 587 of the Nevada Administrative Code (NAC).

**Date:** Thursday, March 10, 2022  
**Time:** 10 a.m. PST  
**Location:** This meeting will be held via Webex

**Remote Meeting Information\*:**

To join the meeting virtually, click on the URL and enter the meeting number and password when prompted:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m72774987d9e6a686585526a28cf13f0f>

Meeting Number: 2556 402 9834

Access code: stQpEpUV936

To join by telephone, call the phone-in number and enter the access code when prompted.

Phone-in Access #: +1-408-418-9388, United States Toll

Access Code: 25564029834#, 78773788#

**\*Per 2021 AB253**

ALL PERSONS WISHING TO ATTEND THE MEETING MUST ATTEND VIA WEBEX OR TELEPHONICALLY. Nevada Revised Statute Chapter 287 has been amended through [2021 AB 253](#) to allow

public meetings to be completed by use of remote technology and without a physical location.

## INFORMATIONAL STATEMENTS

Pursuant to [NRS 233B.0603](#), the NDA is providing the following statements pertaining to the public hearing on proposed changes to Chapter 587 of NAC.

- The need for and the purpose of the proposed regulation or amendment.

The proposed fee increases for inspections and certifications are in direct response to NDA programs running at a deficit or not having adequate resources for properly executing program services per state and federal requirements. This has been a particular issue in the NDA shipping point program, which has had an increase in service demands, but insufficient funds to support the needed staff and resources. This has not only impacted the NDA's ability to provide state services but has also impacted the NDA's compliance with USDA cooperative agreements, resulting in audit findings. In addition, the USDA requires the NDA to collect fees to cover the cost of shipping point and federal phytosanitary inspections and certifications. The new retail and wholesale analysis fee would be to provide a service that verifies label claims, prevents retail and wholesale seed from being a source of invasive species introduction, and to assist retailers and wholesalers with making informed product decisions.

- If the regulation is a temporary one, either the text of the proposed rule or a description of the substance of the rule and the subjects and issues involved. If the regulation is a permanent one, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

The Legislative Counsel permanent regulation text is available by contacting the NDA at 775-353-3601 or through the following links:

- Nevada Department of Agriculture website at [https://agri.nv.gov/Plant/Workshop\\_and\\_Hearing\\_Meetings/Division\\_of\\_Plant\\_Health\\_and\\_Compliance\\_Workshops\\_and\\_Hearings/](https://agri.nv.gov/Plant/Workshop_and_Hearing_Meetings/Division_of_Plant_Health_and_Compliance_Workshops_and_Hearings/)
- Nevada Public Notice website at <https://notice.nv.gov/>
- Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>

- The estimated economic effect of the regulation on the business which it is to regulate and on the public.
  - Adverse economic effect on regulated business  
Per the business impact survey, an increase in fees would impact some regulated businesses. As a result, the NDA has assessed the costs in performing services and evaluated other state structures in an effort to establish fees that would allow for programs to proceed while not limiting industry. Regulated businesses did not attend the workshop.
  - Beneficial economic effect on regulated business  
The NDA has received requests for more staff to be trained and available for inspections due to the growth of agricultural commodities needing to be certified for grade, exports, noxious weeds, and seeds. The proposed fees would cover the program administration costs and assist the NDA with meeting the growing needs of industry and in protecting consumers. Furthermore, this would allow the NDA to resolve federal cooperative agreement audit findings and to have the adequate infrastructure for ensuring adherence to state and federal program requirements.
  - Immediate economic effect on regulated business  
Regulated businesses would experience an immediate increase in service fees. A summary of the reported economic effect is detailed below per responses received during the business impact survey.
    - The first survey was issued on proposed fee increases involving inspections and certifications regulated under NAC 587:
      - 21.74% of those surveyed indicated that there would be a significant impact on their business, with 30.43% responding that there would be no impact and 47.83% responding they were unsure of the impact.
      - The level of negative financial impact reported from the survey included the following: no impact 10%; insignificant impact 20%; minor impact 30%; moderate impact 25%; major impact 10%; and severe impact 5%.
    - The second survey, including seed retailer and wholesaler testing:
      - Out of the 44 respondents, 79.55% reported being a small business.
      - Of those that identified as a small business, 9 respondents (27.27%) stated that this proposed change would affect their ability to do business, while 14 respondents (42.42%) said it would not, and 10 (30.30%) said it might affect their ability to do business.
      - For those identified as small business, 11 respondents (42.31%) reported no impact, 4 respondents (15.38%) reported insignificant impact, 3 respondents (11.54%) reported minor impact, 3 respondents (11.54%) reported moderate impact, 1 respondent (3.85%) reported major impact, and 4 respondents (15.38%) reported severe impact.

- Long-term economic effect on regulated business  
The annual fees would be consistent per the proposed regulation from year to year. The business impact survey details the reported industry economic effects which is also detailed under the previous bullet “*immediate economic effect on regulated business.*” Feedback beyond the digital survey was not provided since there was no public participation during the workshop. The increase in fees for export inspections is to meet the increase in demand for inspectors so the fees will also allow operations to meet their customer demands.
- Adverse economic effect on the public  
Feedback received on potential adverse economic effects are detailed in the Small Business Impact Statement available on the [NDA website](#). No public participants attended the workshop despite being widely distributed and posted. The increase in fees for the regulated industry may be felt through increased product pricing.
- Beneficial economic effect on the public  
Exported products will potentially be able to move more quickly through the supply chain in response to additional inspectors. Further, the NDA will be able to proceed with services that protect the industry, Nevada lands, and the food supply. Consumer protection will be better served through retail and wholesale seed testing to ensure the product is viable. Nevada lands will also be further protected by verifying that retail and wholesale seed is not a source for introducing and spreading noxious weeds.
- Immediate economic effect on the public  
No public participants attended the workshop or provided written comment. The increase in fees for the regulated industry may be felt through increased product pricing.
- Long-term economic effect on the public  
No public participants attended the workshop or submitted written comment. The increase in fees for the regulated industry may be felt through increased product pricing.
- The estimated cost to the agency for enforcement of the proposed regulation.

The proposed fee increases are for existing programs with the exception of the retail and wholesale seed analysis. The fee increases for inspection and certification services would address federal cooperative agreement and program deficit issues. The proposed fee for retail and wholesale seed analysis would support the verification of seed label compliance and allow for corresponding enforcement in order to protect the public, Nevada lands, and the industry. Fees would support one Agriculturist II position to complete the seed analysis and enforcement activities in the amount of \$68,703. Upon initial adoption of the program, an existing Agriculturist II that currently supports the seed program, will be used to help build the program.

- The methods used by the agency in determining the impact on a small business.

Industry feedback was initially solicited through the issuance of digital surveys which were distributed via email to a list of licensed nurseries, livestock commercial scale operations, certified producers (hemp, seed, produce, weed-free), public meeting notice request contacts, the Nevada Farm Bureau, the Nevada Cattlemen’s Association, the Nevada Cattlemen’s Association, and the Nevada Agriculture Economic Outlook Group. Participants issued the surveys were also notified of the opportunity to receive a hard copy of the survey by contacting the Nevada Department of Agriculture (NDA). Additional notice of the opportunity to submit feedback via survey was distributed through the NDA social media channels and the NDA website. The first survey was issued to assess the economic impact of all proposed changes, except for the seed retailer and wholesaler testing fee additions. The survey was open January 15, 2021 to February 1, 2021. Out of 1,400 email recipients, 29 responded to the survey.

A subsequent survey was sent on June 24, 2021 relating to the proposed changes to seed retailer and wholesaler testing fees. The survey was closed on July 13<sup>th</sup>, 2021 and administered via email. Survey notices were sent to the Nevada agriculture industry, industry advocacy groups, and those who have requested to receive notices and communications from the NDA. Initially this list was emailed to 4,108 nurseries and businesses potentially buying or selling seed in Nevada. In addition to being sent out via email on June 24, 2021, the survey was posted to [www.agri.nv.gov/survey](http://www.agri.nv.gov/survey). The survey was promoted on the NDA’s social media pages on July 6, 2021, July 8, 2021, and July 11, 2021. In addition to this promotion, the Nevada Farm Bureau sent it out in their weekly member newsletter on July 2, 2021 and on July 9, 2021.

On July 6, 2021 the survey was sent out to the NDA’s all agriculture email list consisting of 7,195 recipients comprised of various businesses and entities interested in agriculture in Nevada. In total this survey received 44 responses with a 59% survey completion rate. 20 responses were received through the original email. 24 responses were received through social media, email, website postings, and other survey promotions.

Persons interested in obtaining the survey results and summary may do so by contacting the NDA Division of Plant Health and Compliance at [ajeppson@agri.nv.gov](mailto:ajeppson@agri.nv.gov) and a summary of the results can be reviewed through the Small Business Impact Statements.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by email to persons who were known to have an interest in the subject of NAC 587 as well as any persons who had specifically requested such notice.

These documents were also posted and made available at the following locations:

- Nevada Department of Agriculture, 405 S. 21<sup>st</sup> St., Sparks, NV 89431
- Nevada Department of Agriculture, 2300 E. Saint Louis Ave., Las Vegas, NV 89104
- Nevada Department of Agriculture, 4780 E. Idaho St., Elko, NV 89801

- Nevada State Library & Archives
  - County Public Libraries, email contact available at <https://nsla.nv.gov/find-a-library-directory>
  - Nevada Department of Agriculture website at [agri.nv.gov](http://agri.nv.gov)
  - Nevada Public Notice website at <https://notice.nv.gov/>
  - Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>
- 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.

Not applicable.

- If the regulation is required pursuant to federal law, a citation and description of the federal law.

Not applicable.

- If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

Not applicable.

- Whether the proposed regulation establishes a new fee or increases an existing fee.

Yes, the proposed changes are increasing fees for export and weed-free inspections and establishing a new fee for retail and wholesale seed analysis.

- Copies of this notice and proposed regulations will be mailed to members of the public upon request. Copies may also be requested or inspected by visiting the NDA offices located in Elko, Las Vegas or Sparks or the Nevada State Library and Archives at 100 Stewart Street, Carson City, NV 89701. A reasonable fee may be charged for copies or postage if it is deemed necessary. Requests for mailed copies may be directed to

Nevada Department of Agriculture  
 Division of Plant Health and Compliance  
 405 South 21<sup>st</sup> Street  
 Sparks, NV 89431  
 Phone: 775-353-3601; Email: [ajeppson@agri.nv.gov](mailto:ajeppson@agri.nv.gov)

- Notice of this meeting was sent to all persons on the Department’s mailing list for administrative regulations and posted on or before 9 a.m. thirty days before the meeting at the following locations:
  - Nevada Department of Agriculture website at [agri.nv.gov](http://agri.nv.gov)
  - Nevada Public Notice website at <https://notice.nv.gov/>
  - Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>
  
- Persons wishing to make oral comment upon the regulation draft of the Nevada Department of Agriculture may participate at the scheduled hearing. Persons wishing to submit written testimony or documentary evidence may submit the material by emailing [ajeppson@agri.nv.gov](mailto:ajeppson@agri.nv.gov) or via mail to the following address: Nevada Department of Agriculture, Attn: Ashley Jeppson, 405 S. 21<sup>st</sup> ST, Sparks, NV 89431. Written submissions must be received by the NDA on or before March 10, 2022.
  
- Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Please contact the Department at 775-353-3601 or [ajeppson@agri.nv.gov](mailto:ajeppson@agri.nv.gov) at least three (3) business days prior to the meeting.
  
- If no person who is directly affected by the proposed action appears to request time to make and oral presentation, the NDA may proceed immediately to act upon any written submissions.
  
- Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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.

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**ADOPTION HEARING AGENDA**  
**NEVADA DEPARTMENT OF AGRICULTURE**  
**March 10, 2022**  
**10:00 a.m. PST**

**Note:** Items on the agenda may be taken out of the posted order, items may be combined for consideration, and items may be pulled or removed from the agenda.

**I. Call to Order**

**II. Public Comment:** In consideration of others who may wish to provide public comment, please avoid repetition, and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

**III. For possible action:** Discussion and Adoption of Proposed Permanent Regulations  
a. Amendment of regulations that pertain to Chapter 587 of the Nevada Administrative Code.

**IV. Public Comment:** In consideration of others who may wish to provide public comment please avoid repetition and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

**V. Adjourn**