

BRIAN SANDOVAL
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STATE OF NEVADA

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Director

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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 Interim 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,
November 23, 2015 at 9:30 am.

DATE: October 15, 2015

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, November 23, 2015 at 9:30 am.

Please post the agenda before 9:00am on Wednesday, November 18, 2015, 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 McLeod Street
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, November 23, 2015 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 adopt by reference the American Association of Plant Food Control Officials handbook for fertilizer standards; 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.state.nv.us. 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 McLeod Street, 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. R087-15

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, November 23, 2015 at 9:30 am, 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. R087-15 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 adopt by reference the American Association of Plant Food Control Officials handbook for fertilizer standards; 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 regulation or amendment is to simply codify the use of national standards that were already being used. In addition, there is a clarification of the method to assign the responsibility for tonnage taxes and reporting. Neither change has any impact on small businesses.
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.
 - The proposed regulations adopt the American Association of Plant Food Control Officials handbook standards for fertilizers in Nevada. These standards are used nationally so there is no impact on small businesses. The regulation also clarifies the method by which tonnage taxes and reporting may be assigned to another. We did not solicit comment on these regulations because they have no impact on small businesses.
3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
 - Does not Apply
4. The estimated cost to the agency for enforcement of the proposed regulation.
 - Does not Apply
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. The proposed regulation change does not establish a new fee or increase an existing fee.
 - Does not Apply

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 not have an 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
(775) 353-3729
rlittle@agri.nv.gov

Written submissions must be received by the Nevada Department of Agriculture on or before 5:00 pm on November 18, 2015. 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 McLeod
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
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

October 9, 2015

Lynn Hettrick
Deputy Director
Nevada Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Re: LCB File No. R087-15

Dear Mr. Hettrick:

A proposed regulation of the State Department 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.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Darcy L. Johnson".

Darcy L. Johnson
Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

DLJ/slj
Enclosure

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

LCB File No. R087-15

October 9, 2015

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

AUTHORITY: §1, Section 194 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3636; §2, NRS 588.210, as amended by section 196 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3636.

A REGULATION relating to fertilizer; adopting by reference certain fertilizer control rules; revising certain provisions governing the payment of fees and reporting requirements for the sale of certain fertilizers and agricultural minerals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Director of the State Department of Agriculture to adopt by reference the fertilizer control rules and standards of the Association of American Plant Food Control Officials (AAPFCO) or its successor organization. (Section 194 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3636) **Section 1** of this regulation adopts the relevant publication from the AAPFCO, and provides for the Director to review each subsequent edition to ensure its suitability for use in this State.

Existing law requires the registrant of each brand of commercial fertilizer or agricultural minerals to pay certain fees to the Department for each ton sold and to report to the Department the total tonnage sold, unless the responsibility for reporting and payment of fees has been assigned to another person by a contract. (NRS 588.210, as amended by section 196 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3636) **Section 2** of this regulation makes a conforming change regarding the responsibility for such reporting and payment of fees.

Section 1. Chapter 588 of NAC is hereby amended by adding thereto a new section to read as follows:

1. *The Director hereby adopts by reference Official Publication No. 68, 2015 edition, of the Association of American Plant Food Control Officials, and any subsequent edition issued by the Association of American Plant Food Control Officials, or its successor organization, which has been approved by the Director. Each new edition of this publication shall be deemed approved by the Director unless the edition is disapproved by the Director within 60 days after the date of publication by the Association of American Plant Food Control Officials or its successor organization.*

2. *The Director will review each subsequent edition of the Official Publication to ensure its suitability for use in this State. The most recent edition of the publication that has been approved by the Director will be available for inspection at the main office of the Department, or may be purchased for the price of \$60 by mail from the Association of American Plant Food Control Officials, No. 1 Natural Resources Drive, Little Rock, Arkansas, 72205.*

Sec. 2. NAC 588.010 is hereby amended to read as follows:

588.010 ~~{The}~~

1. *Except as otherwise provided in subsection 2, 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 or she shall notify the Department in writing of the person responsible for reporting tonnages and payment of fees.}~~*

2. *A registrant who has entered into a contract pursuant to subsection 4 of NRS 588.210, as amended by section 196 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3636, which assigns the responsibility for reporting the total tonnage and the payment of fees is not responsible for such reports and fees.*

2015 OCT 13 AM 10:18

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY

NRS 233B.0608

Revised LCB File # R087-15

NAC 588

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 proposed regulations adopt the American Association of Plant Food Control Officials handbook standards for fertilizers in Nevada. These standards are used nationally so there is no impact on small businesses. The regulation also clarifies the method by which tonnage taxes and reporting may be assigned to another. We did not solicit comment on these regulations because they have no impact on small businesses. The regulations were available on the website of the Department of Agriculture, www.agri.nv.gov and posted at the following locations:

Department of Agriculture

405 S. 21st Street

Sparks, NV 89431

Department of Agriculture

2300 McLeod Street

Las Vegas, NV 89104

Department of Agriculture

4780 E. Idaho Street

Elko, NV 89801

2. **The manner in which the analyses was conducted.**
 - No analyses was conducted because these regulations do not impact small businesses.
3. **The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:**
 - Does not apply.
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.**
 - Does not apply.

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.
 - Does not apply.
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.**
 - These regulations simply codify the use of national standards that were already being used. In addition, there is a clarification of the method to assign the responsibility for tonnage taxes and reporting. Neither change has any impact on small businesses.

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.



James R. Barbee

Director

Nevada Department of Agriculture