



STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
NEVADA DIVISION OF FORESTRY
2478 Fairview Drive
Carson City, Nevada 89701
Phone (775) 684-2500 Fax (775) 684-2570

August 4, 2015

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Department of Conservation and Natural Resources, Nevada Division of Forestry

The Department of Conservation and Natural Resources, Nevada Division of Forestry (NDF) will hold a public hearing at **9:00 am, on September 4, 2015 at the Richard H. Bryan Building, DCNR Director's Conference Room, 1st Floor, 901 South Stewart Street, Carson City, NV. Teleconference number: 775-684-4311, Access Code: 609882** The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 472 of the Nevada Administrative Code. Written comments must be received no later than September 4, 2015 at 12:00 Noon.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The Rangeland Fire Protection Association (RFPA) program is strictly voluntary by the public and enables remotely located residents to be trained and equipped to respond to wildland fires with the intent to control wildland fires at their smallest size through quick mitigation. This is a collaborative process between federal, state and local fire agencies. The RFPA model has proven successful in other States and will become a highly valuable asset to all government fire departments.
2. To review the revised Legislative Counsel text (LCB File No. R037-15), you may obtain a copy at the Nevada Division of Forestry office at 2478 Fairview Drive, Carson City, NV or at its website at: www.forestry.nv.gov or at the Legislative Counsel's website at: <https://www.leg.state.nv.us/App/Notice/A/> pursuant to NRS 233B.063.
3. These proposed regulations are intended to be a no-cost or low-cost item to Counties, Fire Districts and NDF. The training associated with the RFPAs will be done within the reserve capacity of NDF and associated fire agencies. Both the USFS and BLM are providing safety apparel directly or through grants. The RFPAs are required to be self-supportive in their administrative and operational functions. The short and long-term advantage of the RFPA program is that wildland fires mitigated at an early stage should reduce larger fire suppression costs at the federal, state and local levels.
4. As the RFPA program is strictly voluntary and each RFPA is a non-profit with self-determination, NDF deems that these regulations will have no significant effect or impact on any small business in Nevada. This was determined through a process of deduction and simple analysis of the effects of the regulation. The RFPA legislation also utilized a mixed working group of private businesses, fire agencies, private property owners and the Nevada Association of Counties during legislative amendments. During the amendment process and discussion, no identification of small business impacts were identified, either fiscally or administrative. There is no additional cost to NDF for enforcement of the proposed regulation.
5. There are no regulations of other federal, state or local governmental agencies which the proposed regulation overlaps or duplicates.
6. The regulations are not required pursuant to federal law.

7. The regulations are not more stringent than federal law.
8. The regulation does not provide for any fees to be collected by NDF.

Persons wishing to comment upon the proposed action of NDF may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Nevada Division of Forestry, 2478 Fairview Drive, Carson City, NV, 89701. Written submissions must be received by NDF on or before September 4, 2015 at 12 noon. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, NDF may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted 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 regulations to be adopted will be available at NDF offices located at:

- 2478 Fairview Drive, Carson City, NV
- 885 Eastlake Boulevard, Carson City, NV
- 911 Falcon Lane, Elko, NV
- 4747 Vegas Drive, Las Vegas NV

And have been mailed to the following 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:

- Churchill County Library, 553 South Main Street, Fallon, NV 89406-3306
- Esmeralda County Library, Corner of Crook & 4th Street, PO Box 430, Goldfield, NV 89013-0430
- Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
- Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445-3095
- Battle Mountain Branch Library (Lander County), 625 South Broad Street, Battle Mountain, NV 89820
- Lyon County Library System, 20 Nevin Way, Yerington, NV 89447-2399
- Mineral County Public Library, PO Box 1390, Hawthorne, NV 89415
- Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
- Storey County Clerk's Office, Drawer D, Virginia City, NV 89440
- Tonopah Public Library (Nye County), PO Box 449, Tonopah, NV 89049
- Washoe County Library System, 301 South Center Street, Reno, NV 89501-2102
- White Pine County Library, 950 Campton Street, Ely, NV 89301
- Lincoln County Library, 63 Main Street, Pioche, NV 89043
- Douglas County Library, 1625 Library Lane, Minden, NV 89423

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.

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.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify our office by writing to 2478 Fairview Dr, Carson City, NV 89701 or by calling 775-684-2500 no later than two (2) working days prior to the scheduled meeting.

This notice of hearing has been posted at the following locations:

Nevada Division of Forestry, 2478 Fairview Dr, Carson City, NV
Department of Conservation and Natural Resources, 901 S Stewart St, Carson City, NV
Legislative Building, 401 S Carson St, Carson City, NV,
Nevada State Library, 100 Stewart St, Carson City, NV
Capitol Building, 101 N Carson St, Carson City, NV

Notice of this meeting was posted on the Internet at the following locations:

Nevada Division of Forestry website at <http://forestry.nv.gov/>
Nevada Public Notice at www.notice.nv.gov
Nevada Legislative Counsel Bureau Nevada State Legislature at www.leg.state.nv.us

BRIAN SANDOVAL
Governor

LEO DROZDOFF, P.E., *Director*
Department of Conservation and Natural Resources



BOB ROPER
State Forester/Firewarden

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Public Hearing for Rangeland Fire Protection Associations (RFPA)
Friday, September 4, 2015
Richard H. Bryan Building, DCNR Director's Conference Room – 1st Floor
901 South Stewart Street
Carson City, NV 89701
Conference Call 775-684-4311, PIN: 609882

AGENDA

- I. Welcome
- II. General Overview of RFPAs
- III. Discussion Regarding Proposed Regulation, LCB File No. R-38-15
- IV. Public Comments and receipt of any written comments
- V. Questions
- VI. Adjournment

**PROPOSED REGULATION OF THE
STATE FORESTER FIREWARDEN**

LCB File No. R037-15

July 29, 2015

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

AUTHORITY: §§2 and 3, section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1996; §§1, 4, 6 and 7, section 3.5 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1997; §§5 and 9, NRS 472.060, as amended by section 5 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998, and NRS 472.070, as amended by section 6 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998; §8, sections 7.5 and 7.7 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at pages 1998 and 1999.

A REGULATION relating to fire protection; establishing requirements for the formation, approval and operation of rangeland fire protection associations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 163 of the 2015 Legislative Session authorizes certain entities which own or occupy certain lands to form rangeland fire protection associations for the purpose of providing fire protection services on those lands. (Chapter 357, Statutes of Nevada 2015, p. 1996) Section 3.5 of A.B. 163 requires the State Forester Firewarden to adopt regulations detailing the requirements for formation and operation of such an association.

Section 2 of this regulation describes certain parties which may form a rangeland fire protection association and provides the process for forming such an association. **Section 3** of this regulation provides the conditions under which a board of county commissioners may approve a petition to form such an association. **Section 5** of this regulation provides that such an association may enter into a three-way agreement with a board of county commissioners and the Division of Forestry of the State Department of Conservation and Natural Resources. **Sections 4 and 6** of this regulation provide certain requirements that must be met for such an association to enter into such an agreement. **Section 7** of this regulation provides further operational requirements for a rangeland fire protection association. **Section 8** of this regulation describes

certain parties other than those described in **section 2** which may form a rangeland fire protection association. **Section 8** also provides the process for these parties to form such an association. **Section 9** of this regulation provides that such an association may enter into a three-way agreement with a board of directors or board of fire commissioners of a county fire protection district and the Division.

Section 1. Chapter 472 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *A rangeland fire protection association:*

- 1. May be formed by any business entity, cooperative or any two or more persons who own, lease, produce agriculture on or occupy property.*
- 2. May be established through a petition for approval filed with the board of county commissioners in which the property is located, unless the property is located in a county fire protection district formed pursuant to chapter 474 of NRS.*

Sec. 3. *A board of county commissioners may approve a petition filed pursuant to section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1996, and section 2 of this regulation if the petitioning association:*

- 1. Provides to the board a written notice from the State Forester Firewarden that the proposed rangeland fire protection association meets all the applicable requirements set forth in sections 2 to 7, inclusive, of this regulation; and*
- 2. Meets any additional requirements established by the board relating to the creation, operation and duties of a rangeland fire protection association.*

Sec. 4. *1. Before entering into any agreement with a rangeland fire protection association pursuant to section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada*

2015, at page 1996, NRS 472.060, as amended by section 5 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998, or NRS 472.070, as amended by section 6 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998, or section 5 of this regulation, and annually thereafter, a board of county commissioners, in cooperation with the State Forester Firewarden, shall evaluate the rangeland fire protection association to ensure it meets the following requirements:

(a) Adequate governance and management structure, including, without limitation, the appointment of a chair to act as management executive of the association and run association meetings, the appointment of a commander of operations and the appointment of supervisors, as necessary.

(b) A map delineating the geographical boundaries, as described in section 6 of this regulation, within which the association will operate.

(c) Adequate liability insurance coverage, in an amount not less than \$100,000, as determined annually by consensus of the board of county commissioners and the State Forester Firewarden, in consultation with their respective risk management departments.

(d) Satisfactory condition and maintenance of vehicles and equipment used by the association, as determined through an on-site inspection of vehicles and equipment and a review of maintenance records.

(e) Adequate training and qualifications of association members, including, without limitation, all association members involved in firefighting at least satisfying the qualifications for Firefighter Type 2, certified by the authority having jurisdiction, as specified in the most recent version of the National Wildland Fire Qualification System Guide , PMS 310-1, which

is hereby adopted by reference. A copy of the publication is available, free of charge, from the National Wildfire Coordinating Group at the Internet address http://www.nwccg.gov/sites/default/files/products/pms310-1_2015.pdf.

2. A board of county commissioners may delegate, in writing, the performance of the evaluation required pursuant to subsection 1 and section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1996 to the State Forester Firewarden who shall report the results of the evaluation to that board.

Sec. 5. 1. A board of county commissioners may enter into a three-way agreement with a rangeland fire protection association and the Division of Forestry of the State Department of Conservation and Natural Resources pursuant to NRS 472.060, as amended by section 5 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998, or NRS 472.070, as amended by section 6 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998.

2. Before entering into an agreement with the Division as described in subsection 1, a rangeland fire protection association must be approved by the board of county commissioners pursuant to section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1996, and section 3 of this regulation and must comply with all applicable requirements of chapter 472 of NRS and sections 2 to 7, inclusive, of this regulation as a condition of the agreement.

Sec. 6. A rangeland fire protection association entering into an agreement described in section 5 of this regulation shall:

1. Provide to the State Forester Firewarden a written inventory of association resources available to provide fire protection, including, without limitation, the number and types of personnel, vehicles and equipment. This list must be updated as needed and at least once each calendar year.

2. Maintain industrial insurance for all personnel in accordance with chapters 616A to 616D, inclusive, of NRS.

3. Enforce proper use and maintenance of personal protective equipment at all times.

4. Adhere to proper radio etiquette and an approved plan for all radio communications equipment, including, without limitation, any requirements issued to the association by a state or federal fire agency.

Sec. 7. 1. The scope of a rangeland fire protection association formed pursuant to section 3 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1996, and section 3 of this regulation is limited as follows:

(a) Each member of the association must own, lease, produce agriculture on or occupy property located within the operational boundaries of the association, as provided pursuant to paragraph (b) of subsection 1 of section 4 of this regulation, and approved by the board of county commissioners and the State Forester Firewarden.

(b) The operational boundaries of the association must represent the common interests of the association membership and must be proportional to the size of the association.

(c) Except as otherwise provided in an agreement described in section 5 of this regulation, the association shall limit its firefighting operations to primary fire suppression functions

during the incipient stage of a wildland fire within the association boundaries or within 1/2 mile of the association boundary.

(d) When entering an adjacent fire protection area to undertake suppression of a fire pursuant to paragraph (c), an association shall immediately notify the adjacent fire protection agency and establish communications with that agency.

(e) A rangeland fire protection association may not engage in interior structure firefighting.

2. A rangeland fire protection association may enter into a mutual aid agreement with an adjacent fire protection district as appropriate and with notification to the State Forester Firewarden.

Sec. 8. 1. Any business entity or cooperative or any two or more persons who own, lease, produce agriculture on or occupy property located in a county fire protection district described in NRS 474.010 to 474.450, inclusive, may establish a rangeland fire protection association by filing a petition for approval with the board of directors of such a county fire protection district.

2. Any business entity or cooperative or any two or more persons who own, lease, produce agriculture on or occupy property located in a county fire protection district described in NRS 474.460 may establish a rangeland fire protection association by filing a petition for approval with the board of fire commissioners of such a county fire protection district.

3. A board of directors or board of fire commissioners of a county fire protection district may approve a petition filed pursuant to subsection 1 or 2 and section 7.5 or 7.7 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at pages 1998 and 1999 if the proposed

rangeland fire protection association meets those requirements established by that board for the creation, operation and duties of a rangeland fire protection association, including, without limitation, requirements regarding management structure, insurance requirements, training requirements, maintenance of equipment and vehicles and scope of operations of the association.

4. The State Forester Firewarden shall provide the recommendations developed pursuant to subsection 2 of section 3.5 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1997, to a board of directors or board of fire commissioners of a county fire protection district regarding the management structure, insurance requirements, training requirements, maintenance of equipment and vehicles and scope of operations of a rangeland fire protection association. A board of directors or board of fire commissioners of a county fire protection district is not bound by the recommendations of the State Forester Firewarden or sections 3 to 7, inclusive, of this regulation.

5. A board of directors or board of fire commissioners of a county fire protection district may delegate, in writing, the evaluation of a proposed rangeland fire protection association or any subsequent evaluations required by that board to the State Forester Firewarden, who shall report the results of the evaluation to that board.

Sec. 9. 1. A board of directors or board of fire commissioners of a county fire protection district may enter into a three-way agreement with a rangeland fire protection association and the Division of Forestry of the State Department of Conservation and Natural Resources pursuant to NRS 472.060, as amended by section 5 of Assembly Bill No. 163,

chapter 357, Statutes of Nevada 2015, at page 1998, or NRS 472.070, as amended by section 6 of Assembly Bill No. 163, chapter 357, Statutes of Nevada 2015, at page 1998.

2. An agreement described in subsection 1 is not subject to the provisions of section 5 of this regulation. As part of the agreement, the parties to such an agreement shall mutually agree upon any requirements imposed upon a rangeland fire protection association entering into that agreement.



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August 4, 2015

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS PERTAINING TO THE
FORMATION AND OPERATION OF RANGELAND FIRE PROTECTION ASSOCIATIONS (RFPA)**

The intent of this statement is to determine whether the RFPA regulations are likely to impose a direct and significant economic impact upon small businesses - NRS 233B.0608 (1). On June 4, 2015, Governor Sandoval signed AB 163 that amends NRS 472 to allow formation of RFPAs.

A RFPA is a group of rural residents and businesses that have a common and vested interest in detecting and suppressing wildland fires at their earliest fire stage. RFPAs are formed voluntarily and operate under a non-profit structure in cooperation with their respective counties and fire agencies. As a voluntary organization, they are not mandated to act, but if they do, RFPAs must follow the proposed regulations (attached). RFPAs have the ability for self-determination and will self-fund their associations with support (training, administration and limited equipment) from the Nevada Division of Forestry (NDF), Bureau of Land Management (BLM) and U.S. Forest Service (USFS).

Per AB 408 of the 77th Session of Nevada Legislature, it is required that NDF "Conduct or cause to be conducted an analysis of the likely impact of the proposed regulations on small businesses."

As the RFPA program is strictly voluntary and each RFPA is a non-profit with self-determination, NDF deems that these regulations will have no significant effect or impact on any small business in Nevada.

This was determined through a process of deduction and simple analysis of the effects of the regulation. The RFPA legislation also utilized a mixed working group of private businesses, fire agencies, private property owners and the Nevada Association of Counties during legislative amendments. During the amendment process and discussion, no identification of small business impacts were identified, either fiscally or administrative.

A blue ink signature of Bob Roper, written over a horizontal line.

I, Bob Roper, State Forester Firewarden, 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 the information contained in this statement is accurate.