

**ADOPTED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R100-15

Effective December 21, 2016

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

AUTHORITY: §§1 and 5, section 46 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2474 (NRS 587.899); §2, section 29 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2468 (587.867), and section 46 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2474 (587.899); §3, section 34 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2470 (NRS 587.877), and section 46 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2474 (587.899); §4, section 37 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2471 (NRS 587.883), and section 46 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2474 (587.899).

A REGULATION relating to commercial feed; establishing application requirements and fees for a license to manufacture, distribute or be a guarantor of commercial feed; establishing quarterly fees for licensees and certain requirements for the payment of those fees; establishing fees for certain inspections and audits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires any person who manufactures, distributes or acts as a guarantor of commercial feed in this State to maintain a license issued by the State Department of Agriculture. (Sections 16-46 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at pages 2467-74 (NRS 587.841-587.899)) **Section 2** of this regulation requires certain materials to be submitted with an application for a new license or for renewal of an existing license and sets forth the applicable application and renewal fees.

Existing law requires that a quarterly report and fee be submitted by each licensee. (Section 34 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2470 (NRS 587.877)) **Section 3** of this regulation establishes the amount of the quarterly fee and provides for conditions under which the fee may be submitted by a third party.

Existing law authorizes the Department to inspect or audit any licensee at the request of the licensee and to establish a schedule of fees for such inspections and audits. (Section 37 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2471 (NRS 587.883)) **Section 4** of this regulation establishes the fees for those audits or inspections.

Section 1. Chapter 587 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *An application for a license to manufacture, distribute or be a guarantor of commercial feed or an application to renew such a license must include:*

1. A declaration identifying the party responsible for submitting the quarterly reports and fees required by section 34 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2470 (NRS 587.877).

2. A nonrefundable application or annual renewal fee, as applicable, of \$75.

3. For an application for renewal submitted after December 31 of the year the renewal is due, a late fee of \$20.

4. Any other information required by the Department.

Sec. 3. *1. Except as otherwise provided in subsection 2, each licensee must file the quarterly reports and pay the quarterly fee required by section 34 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2470 (NRS 587.877), regardless of whether the licensee manufactured, distributed or acted as the guarantor for any commercial feed during the preceding calendar quarter.*

2. The provisions of subsection 1 requiring the payment of a quarterly fee do not apply to a licensee if:

(a) The fee for the same feed has been submitted in a timely manner by another licensee;

or

(b) The responsibility for the payment of the fee has been assigned to another party pursuant to a contract which:

(1) Identifies each party by name, address, telephone number and title, if applicable;

- (2) Includes the license number of each party;*
 - (3) Identifies the specific product or products covered by the contract;*
 - (4) Includes the effective date, which is on the first of a quarterly reporting period, and the expiration date, which is on the last day of a quarterly reporting period;*
 - (5) Does not exceed a duration of 3 years; and*
 - (6) Is signed by each party or an authorized agent of each party.*
- 3. The quarterly fee due with each report is the greater of:*
- (a) Five dollars; or*
 - (b) Fifteen cents per ton of commercial feed manufactured, distributed or guaranteed in this State during the preceding calendar quarter.*

Sec. 4. 1. The fee for the Department to conduct an audit or inspection at the request of a licensee pursuant to section 37 of Senate Bill No. 488, chapter 430, Statutes of Nevada 2015, at page 2471 (NRS 587.883), is:

- (a) For an audit, \$75 per hour per auditor; or*
 - (b) For an inspection, \$60 per hour per inspector.*
- 2. In addition to the hourly rate provided in subsection 1, a charge for miles driven to and from the audit or inspection site will be charged at the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS
233B.066
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The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter NAC 587 relating to licensure to manufacture, distribute or be a guarantor of commercial feed.

1. A clear and concise explanation of the need for the adopted regulation.

- The purpose of the proposed regulation change to NAC 587 is to benefit Nevada Department of Agriculture staff and small businesses by registering commercial feed distributors and manufactures in Nevada in order to comply with the federal Food Safety Modernization Act.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary

- Copies of the proposed regulation were sent by U.S mail and emailed to persons who were known to have interest in feed manufacturing in addition to seven businesses that identified themselves as being feed manufactures. These documents were also made available at the Nevada Department of Agriculture website, <http://agri.nv.gov/>, mailed to all county libraries in Nevada and posted at the locations listed below.

**Elko Brands Office
4780 E. Idaho Street
Elko Nevada, 89801**

**Las Vegas Office
2300 McLeod Street
Las Vegas Nevada, 89104**

**Reno/ Sparks Office
405 S. 21st Street
Sparks, Nevada 89431**

- The Nevada Department of Agriculture's board was presented with the proposal to amend the proposed regulation where it was unanimously accepted to move forward with regulation change process.
- The amendment to the regulation was presented at numerous events where interested persons were in attendance and public comment was taken. Some of these events included: the Nevada Farm Bureau Annual Meeting, and the Nevada Cattlemen's Association.
- Surveys were distributed via U.S mail, email and social media outlets for interested persons to give feedback on the proposed amendment.
- A workshop was held September 10, 2015 for interested persons to attend and review the impact on small business and make public comment.
- A public hearing was held on November 30, 2015 where the intent to adopt the regulation as a permanent regulation was formally announced and discussed.

3. The number persons who:

- **Attended at each hearing:** January 15, 2015-November 30, 2015 : 0
- **Testified at each hearing:** January 15, 2015- November 30, 2015 : 0
- **Submitted to the agency written comments:** No written comment was submitted.

4. **A list of names and contact information, including telephone number, business address, business telephone number and electronic mail address and the name of entity or organization represented for each person identified above in #3, as provided to the agency, is attached as Exhibit A.**
****No attendees at hearing or workshop.**
5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**
 - Comments were solicited from affected business in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.
6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**
 - The permanent regulation was adopted December 1, 2015.
7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - There will be minimal economic effects to businesses regulated. The \$75 annual fee per business entity is a small effect when considering it is necessary to comply with federal law and help ensure the safety of Nevada citizens. The total economic impact to the feed production and distribution industry will be under \$100,000.
 - The positive effects will be much greater by ensuring businesses can continue to operate in Nevada under the federal law requirements. These effects will be immediate and continue long term.
8. **The estimated cost to the agency for enforcement of the adopted regulation.**
 - The agency estimates a cost of less than \$100,000 dollars to enforce the adopted regulation.
9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**
 - These provisions are mandated by the federal Food Safety Modernization Act. The FDA requests that individual states to implement the act.
10. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**
 - There are no more stringent federal regulations that apply.

11. If the 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 agency expects to collect less than \$100,000 in fees from this regulation. These fees will be used to enforce the regulations through an inspector, equipment and associated expenses.