



NEVADA DIVISION OF FORESTRY

STATE OF NEVADA
Department of Conservation & Natural Resources
Joe Lombardo, *Governor*
James A. Settlemeyer, *Director*
Kacey KC, *State Forester/Firewarden*

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Permanent Regulations of the Nevada Division of Forestry

LCB File Number R049-24

The Nevada Division of Forestry (NDF) will hold a public hearing to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 528 of the Nevada Administrative Code.

Date: Thursday, May 23, 2024
Time: 10:00AM
Location: Nevada Division of Forestry Headquarters
Bryan Building, Bonnie Conference Room (1st Floor)
901 S. Stewart St.
Carson City, NV 89701
Virtual: Click or type the shortcode to access the meeting:
<https://rb.gy/954n1f>
Meeting ID: 244 340 864 899
Passcode: 6DvGUw
Or call in (audio only): (775) 321-6111, 611649905#

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

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

The repeal of this regulation aims to broaden the availability of conservation plants to all landowners in Nevada for various conservation purposes, regardless of parcel size and location. NDF Conservation Nurseries produce conservation plant materials not commonly accessible to the public through other outlets and retailers. However, the ever-expanding city limits and smaller parcel sizes that fail to meet the NAC-required purchaser eligibility criteria are impeding public access to plants crucial for conservation achieving objectives within those areas. These objectives encompass water conservation, erosion control, human health, wildfire risk reduction, mitigation of urban heat islands, decreased energy consumption, promotion of pollinator habitats, reduction of chemical fertilizer and pesticide usage, enhancement of biodiversity, and habitat functionality. Conservation efforts across all scales

and locations are essential for achieving collective health, economic, and quality of life benefits for all residents of Nevada.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is not a temporary regulation.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

a. Both adverse and beneficial effects; and

- On business: NDF foresees minimal to no adverse effects on regulated businesses as a result of the regulation, except for a small subset of businesses that may have overlapping products with state nurseries. However, there are existing policies governing plant material sales, along with the specific combinations of size and species offered by NDF, which effectively minimize market overlap between small businesses and NDF's nursery plant materials markets in Nevada. This repeal could benefit businesses through broader availability of effective conservation plant materials that could be used to install conservation projects in areas that do not currently qualify.
- On the public: The repeal of this regulation benefits the public by increasing the availability of native and naturalized plant materials providing Nevada consumers with a broader selection for their conservation projects. Additionally, conservation project installation has a combined beneficial effect beyond the site where it is typically installed because water, air, energy, and other natural resources are shared by the public and often cross jurisdictional lines, landowner boundaries, and into public spaces. There is no perceived adverse effect to the public.

b. Both immediate and long-term effects.

- On business: In the short term, businesses may experience a minimal impact on plant material sales where there is overlap with state nurseries. However, in the long term, businesses might adjust the plant materials they offer, potentially eliminating the overlap in products for sale.
- On the public: NDF anticipates no change in the timing of the effects listed above. The effects should remain the same in the immediate or long-term effects on the public as the repeal of the regulation simply broadens the availability of specific plant materials accessible from state conservation nurseries.

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

NDF reviewed its current policies and procedures to evaluate the intersection between the use of plant materials sold by NDF and those sold by small businesses. NDF is governed by the existing statute (NRS 528.105) that mandates the utilization of plant materials sold by NDF for specific and well-defined conservation purposes. These purposes do not highly overlap with the most prominent application of most small business plant material sales which are dominated by residential landscaping and gardening applications. NDF conducted a small business impact survey where a survey was sent to all nursery operators in the state. Survey responses were reviewed for beneficial and negative effects and impacts of the

proposed regulation repeal on the survey respondents. NDF also worked with small businesses to acquire inventories of their available plant materials for sale. Subsequently, a comparison was conducted with NDF's plant materials lists to identify any overlap, revealing minimal similarity in specific species within the same size selection.

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

NDF does not anticipate incurring any additional cost resulting from the proposed repeal of this regulation.

6. 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.

The proposed regulation does not overlap or duplicate any existing regulation.

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

The proposed regulation is not required by federal law and there is no equivalent federal law.

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

The regulation does not include provisions which are more stringent than a federal regulation that regulates the same activity.

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

The regulation does not create any new fees or increase an existing fee.

10. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied.)

This is not a temporary regulation.

Persons wishing to comment upon the proposed action of Nevada Division of Forestry may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, by emailing ndfinfo@forestry.nv.gov or by mailing to the following address: Nevada Division of Forestry, 901 S. Stewart Street Ste. 1001, Carson City, NV 89701
Written submissions must be received by the Nevada Division of Forestry on or before May 23, 2024. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be repealed will be on file at the State Library, Archives and Public Records, 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 repealed will be available at each Division office location detailed in the notice below 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 at no charge upon request.

Upon adoption of any regulation, the Nevada Division of Forestry, 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.

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

Nevada Division of Forestry website <https://forestry.nv.gov/happening-now>
Nevada State Legislature website www.leg.state.nv.us/App/Notice/A/
Nevada Public Notice website <http://notice.nv.gov>
Grant Sawyer Building, 555 E. Washington Ave, Las Vegas, NV 89101
Nevada State Legislature, 401 S. Carson St., Carson City, Nevada
Nevada State Library and Archives, 100 N. Stewart St, Carson City, Nevada
NDF Headquarters, 901 So. Stewart Street, Carson City, NV 89701
NDF AirOps Hangar, 2301 Firebrand Circle, Minden, NV 89423
Carlin Conservation Camp, 101 Susie Creek Road, Carlin, NV 89822
Elko Interagency Dispatch Center, 725 Aspen Way, Elko, NV 89822
Ely Conservation Camp, 1213 N. Industrial Way, Ely, NV 89301
Eastern Sierra Camp, 1721 Snyder Ave, Carson City, NV 89701
Humboldt Conservation Camp, 8105 Conservation Rd., Winnemucca, NV 89445
Jean Conservation Camp, #2 Prison Road, Jean, NV 89019
Las Vegas Tree Nursery, 9600 Thule Springs Road, Las Vegas, NV 89131
Pioche Conservation Camp, 1 Hard Times Road, Pioche, NV 89043
Sierra Front Interagency Dispatch Center, 2311 Firebrand Circle, Minden, NV 89423
Southern Region Headquarters, 4747 Las Vegas Blvd., Las Vegas, NV 89108
Three Lakes Valley Conservation Camp, 21055 Cold Creek Road, Indian Springs, NV 89124
Tonopah Conservation Camp, 100 Conservation Rd Hwy 376, Tonopah, NV 89049
Washoe Tree Nursery, 885 Eastlake Blvd, Washoe Valley, NV 89704
Western Region Headquarters, 885 Eastlake Blvd., Washoe Valley, NV 89704
Bowers Fire Station, 3905 Old Highway 395 North, Washoe Valley, NV 89704
Churchill County Library, 553 South Maine Street, Fallon, NV 89406
Esmeralda County Library, Crook Avenue & 4th Street, Goldfield, NV 89013
Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Lander County Library, 625 South Broad Steet, Battle Mountain, NV 89820
Lyon County Library, 20 Nevin Way, Yerington, NV 89447
Mineral County Library, 110 1st Street, PO Box 1390, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, PO Box 781, Lovelock, NV 89419
Storey County Library, 175 Carson Street, Virginia City, NV 89440

Posted on: April 12, 2024



NEVADA DIVISION OF FORESTRY

STATE OF NEVADA
Department of Conservation & Natural Resources
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Kacey KC, *State Forester/Firewarden*

PUBLIC ADOPTION HEARING AGENDA LCB File R049-24

THURSDAY, MAY 23 at 10:00AM

Richard Bryan Building
Bonnie Conference Room (1st Floor)
901 S. Stewart Street
Carson City, NV 89701

Teleconference Access Information

<https://rb.gy/954n1f>

Meeting ID: 244 340 864 899

Passcode: 6DvGUw

Or call in (audio only): (775) 321-6111, 611649905#

1. CALL TO ORDER

2. PUBLIC COMMENT

All public comments should be as brief and concise as possible so that all who wish to speak may do so (3 minutes for individuals and 5 minutes for group representatives). Comment will not be restricted based on viewpoint.

3. REVIEW AND DISCUSSION OF LCB File R049-24

The proposed regulation change relates to state nurseries and would repeal certain criteria for eligibility for distribution of conservation plant materials for planting on private property; and providing other matters properly related thereto by repealing NAC 528.110.

4. ADOPTION OF LCB File R049-24 (FOR POSSIBLE ACTION)

5. PUBLIC COMMENT

All public comments should be as brief and concise as possible so that all who wish to speak may do so (3 minutes for individuals and 5 minutes for group representatives). Comment will not be restricted based on viewpoint.

6. ADJOURNMENT

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.

Notice of this meeting was posted in the following locations:

Department of Conservation and Natural Resources, 901 S. Stewart St., Carson City, Nevada
NDF Southern Region Headquarters, 4747 Las Vegas Blvd., Las Vegas, NV 89108

*NDF Western Region Headquarters, 885 Eastlake Blvd., Washoe Valley, NV 89704
Nevada State Legislature, 401 S. Carson St., Carson City, Nevada
Grant Sawyer Building, 555 E. Washington Ave, Las Vegas, Nevada
Nevada State Library and Archives, 100 N. Stewart St, Carson City, Nevada*

Notice of this meeting was also posted to the Division website at <https://forestry.nv.gov/>, Nevada Public Notice website at <https://notice.nv.gov/>, and Nevada Legislature Administrative Notices at <https://www.leg.state.nv.us/App/Notice/A/>

We are pleased to provide reasonable accommodation for individuals with disabilities who wish to attend the meeting. If special accommodations or assistance at the meeting are requested, please notify our office by writing to the Nevada Division of Forestry 901 S. Stewart Street, Suite 1001, Carson City, NV 89701; or by calling 775-684-2500 no later than two (2) working days prior to the scheduled meeting. You can also email ndfinfo@forestry.nv.gov.

To obtain support material for the agenda please email ndfinfo@forestry.nv.gov, call 775-684-2500 or write to Nevada Division of Forestry 901 S. Stewart Street, Suite 1001, Carson City, NV 89701. Materials will also be posted on the [NDF Website](https://forestry.nv.gov/happening-now) at <https://forestry.nv.gov/happening-now>.

**PROPOSED REGULATION OF THE
STATE FORESTER FIREWARDEN**

LCB File No. R049-24

April 3, 2024

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

AUTHORITY: § 1, NRS 528.105.

A REGULATION relating to state nurseries; repealing certain criteria for eligibility for distribution of conservation plant materials for planting on private property; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Forester Firewarden of the Division of Forestry of the State Department of Conservation and Natural Resources to take certain actions, subject to the approval of the Director of the Department, to establish and develop state nursery sites for the procurement and production, research and display of forest tree seeds and conservation plant materials. (NRS 528.100) Existing law requires that any such state nursery operate under management of the State Forester Firewarden and authorizes the State Forester Firewarden to: (1) distribute conservation plant materials for planting on private property for certain specific purposes related to conservation; and (2) set by regulation the criteria for eligibility for distribution of such conservation plant materials. (NRS 528.105)

Existing regulations establish that the criteria for eligibility for distribution of such plant materials to private landowners in Nevada are that the land on which the plants are to be planted must: (1) consist of a total area of 1 acre or more, whether on a single parcel or a combination of contiguous parcels; and (2) be entirely outside the city limits of any incorporated city, except that in Carson City it must be outside the designated urban area of the city. (NAC 528.110) This regulation repeals these criteria from the Nevada Administrative Code.

Section 1. NAC 528.110 is hereby repealed.

TEXT OF REPEALED SECTION

528.110 Sale of plant materials to private landowners. The criteria for eligibility for distribution of plant materials to private landowners in Nevada are:

1. The land on which the plants are to be planted must consist of a parcel containing 1 acre or more, or 2 or more contiguous parcels owned by different owners if those parcels total 1 acre or more; and

2. The land must be entirely outside the city limits of any incorporated city of this state, except that in Carson City the land must be outside the designated urban area of the city.