

LCB File No. T013-02

**PROPOSED TEMPORARY REGULATION OF THE DIVISION
OF FORESTRY OF THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES**

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations
of the **State Forester of the Nevada Division of Forestry**

and

Notice of Workshops to Solicit Public Comments

The Nevada Division of Forestry will hold a **Public Hearing at 9:15 a.m. on December 12, 2002 at the Division of Forestry Regional Headquarters Conference Room, 885 Eastlake Boulevard, Carson City, Nevada.** The purpose of the hearing is to receive comments from all interested person regarding the adoption of regulations that pertain to chapter 527 of the Nevada Administrative Code.

In addition, **Public Workshops** to solicit input and comments from all interested persons are set

- for:
- 1) November 13, 2002, 2:00 p.m., at Nevada Division of Forestry, 911 Falcon Lane, **Elko, NV.**
 - 2) November 14, 2002, 3:00 p.m., at Nevada Division of Forestry, 4747 West Vegas Drive, **Las Vegas, NV.**

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

1. The Nevada Legislature has declared that the people of the State have an obligation to conserve and protect the various species of native flora which are threatened with extinction. The purpose of this regulation is to provide a program for the conservation, protection, restoration and propagation of endangered native plants and for the perpetuation of their habitats in accordance with NRS 527.260.

2. The text of the proposed regulation is attached hereto.

3. The estimated economic effect of the proposed regulation on the general public is minimal, though individuals intending to develop their property in a manner that would remove or destroy an endangered plant would be required to pay a fee for review of their application for a permit and may incur other costs related to any necessary mitigation of such impacts. The estimated economic effect of the proposed regulation on the construction and development business has potential to be more significant, depending the extent of the endangered plant population, if any, on the property to be developed, the scale of the intended development activities, and the mitigation activities, if any, that would be necessary. Such costs would involve paying a per acre fee for review of an application for a permit and the costs related to

any necessary mitigation of the impacts to the endangered plants that would occur as a result of the development activities.

4. There will be costs to the agency to implement and enforce the proposed regulations, though the costs are difficult to estimate precisely, including review of permits for removal or destruction of endangered plants, assessment and inventory of plant populations on proposed project sites, assistance to property owners in creating, implementing and overseeing of mitigation plans, development and implementation of management areas, and scientific research.

5. With respect to native Nevada flora that has been listed as an endangered or threatened species by the United States Fish and Wildlife Service pursuant to the Endangered Species Act there will be overlap with the federal law contained at 16 U.S.C. §§ 1531-1544 and the federal regulations promulgated thereto.

6. The proposed regulation establishes a new fee for review of applications for destruction or removal of endangered native flora.

Persons wishing to comment upon the proposed action of the Nevada Division of Forestry may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Nevada Division of Forestry, to the attention of Rich Harvey, 2525 South Carson Street, Carson City, Nevada 89701. Written submissions must be received by the Nevada Division of Forestry on or before December 12, 2002. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Division of Forestry 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 St., Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Nevada Division of Forestry offices at 2525 South Carson Street, Carson City, Nevada; at 911 Falcon Lane, Elko, Nevada; at 4747 West Vegas Dr., Las Vegas, Nevada; and at the main public library for each Nevada county, for inspection and copying by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be 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/register/index.html>. 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.

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

Nevada Division of Forestry
4747 West Vegas Dr.
Las Vegas, NV 89108

Tonopah Public Library
171 Central Street
Tonopah, NV 89049

Nevada Division of Forestry
911 Falcon Lane
Elko, NV 89802

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419

Nevada Division of Forestry
2525 South Carson Street
Carson City, NV 89701

Storey County Library
95 South R Street
Virginia City, NV 89440

Department of Conservation & Natural Resources
123 W. Nye Lane
Carson City, NV 89701

Washoe County Library
301 South Center
Reno, NV 89505

Churchill County Library
5553 S. Maine Street
Fallon, NV 89406

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
833 Las Vegas Blvd., North
Las Vegas, NV 89101

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Elko County Library
720 Court Street
Elko, NV 89801

Carson City Library
900 N. Roop Street
Carson City, NV 89701

Goldfield Public Library
Fourth & Crook Street
Goldfield, NV 89013

Douglas County Library
P.O. Box 337
Minden, NV 89423

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Lincoln County Library
93 Main Street
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
Hawthorne, NV 89415

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NOTE: Matter in *italics* is new; matter within brackets [] is to be omitted.

A Table of Contents Referencing the Sections Follows the Text of the Regulation

Authority: NRS 527.050, 527.260 through 527.300, and 472.

Purpose and Explanation:

With an unequivocally committed statement of purpose, the Legislature charged the State Forester of the Nevada Division of Forestry with developing and administering a program for the conservation, protection, restoration and propagation of native flora threatened with extinction and for the perpetuation of the habitats of such species. The governing statutes make it a crime to remove or destroy such threatened plants at any time or by any means except under a special permit issued by the State Forester. The statute also provides that the State Forester may establish, administer and manage areas for the conservation, protection, restoration and propagation of such threatened species and for the perpetuation of their habitats, and enter into cooperative agreements with any legal entity to accomplish such a purpose.

Sec. 15. NAC 527.010 is hereby amended to read as follows:

527.010 List of fully protected species of native flora.

The State Forester has declared the following species and subspecies of native plants to be critically endangered and threatened with extinction pursuant to NRS 527.270. Although common names are included, they cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The State Forester will rely to the extent practicable on the International Code of Botanical Nomenclature.

<u><i>Arctomecon californica</i></u> , Las Vegas bear poppy	Torrey & Fremont
<u><i>Astragalus beatleyae</i></u> , Beatley milkvetch	Barneby
<u><i>Astragalus geyeri</i></u> var. <u><i>triquetrus</i></u> , threecorner milkvetch	(A. Gray) M.E. Jones
<u><i>Astragalus lentiginosus</i></u> <u><i>Douglas</i></u> var. <u><i>sesquimetralis</i></u> , Sodaville milkvetch (Rydberg) Barneby	

<i>Astragalus mohavensis</i> var. <i>hemigyris</i> , halfring milkvetch	(Clokey) Barneby
<i>Astragalus phoenix</i> , Ash Meadows milkvetch	Barneby
<i>Astragalus yoder-williamsii</i> , Osgood Mountains milkvetch	Barneby
<i>Castilleja salsuginosa</i> , Monte Neva paintbrush	N. Holmgren
<i>Centaurium namophilum</i> , Spring-loving centaury	Reveal, Broome & Beatley
<i>Cryptantha insolita</i> , Unusual cats-eye	(MacBride) Payson
<i>Enceliopsis nudicaulis</i> var. <i>corrugata</i> , Ash Meadows sunray	(A. Gray) A. Nelson
<i>Eriogonum argophyllum</i> , Sulphur Springs buckwheat	Reveal
<i>Eriogonum ovalifolium</i> , var. <i>williamsiae</i> , Steamboat buckwheat	Reveal
<i>Eriogonum viscidulum</i> , Sticky buckwheat	J.T. Howell
<i>Frasera gypsicola</i> , Sunnyside green gentian	(Barneby) D.M. Post
<i>Grindelia fraxino-pratensis</i> , Ash Meadows gumplant	Reveal
<i>Ivesia kingii</i> var. <i>eremica</i> , Ash Meadows ivesia	(Coville) Ertter
<i>Ivesia webberi</i> , <i>Webber ivesia</i>	A. Gray
<i>Mentzelia leucophylla</i> , Ash Meadows blazingstar	Brandegee
<i>Nitrophila mohavensis</i> , Amargosa niterwort	Munz & Roos
<i>Opuntia whipplei</i> var. <i>multigeniculata</i> , Blue Diamond cholla	(Clokey) Benson
<i>Phacelia inconspicua</i> , Obscure scorpion plant	E.L. Greene
<i>Polycatenium williamsiae</i> , Williams combleaf	Rollins
<i>Rorippa subumbellata</i> , Tahoe yellowcress	Rollins
<i>Spiranthes diluvialis</i> , Ute lady's tresses	Sheviak