

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

LCB File No. R242-03

March 31, 2004

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

AUTHORITY: §§1-9, NRS 588.164.

A REGULATION relating to commercial fertilizers and agricultural minerals; classifying ammonium nitrate and anhydrous ammonia as restricted-use commercial fertilizers or agricultural minerals under certain circumstances; requiring a person who has a duty to keep a record of his sales of restricted-use commercial fertilizers or agricultural minerals to include in that record a unique number that provides positive identification of the person to whom the restricted-use commercial fertilizer or agricultural mineral was sold or delivered and to make that record available to the Director of the State Department of Agriculture upon request; prohibiting any person from selling, offering to sell or distributing a restricted-use commercial fertilizer or agricultural mineral if it is adulterated; excepting from certain requirements a commercial fertilizer or agricultural mineral that contains additional plant nutrients if it is offered for sale, sold or distributed as a ready-to-use or similar product; and providing other matters properly relating thereto.

Section 1. Chapter 588 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *The following commercial fertilizers or agricultural minerals, if sold, offered for sale or distributed as single nutrients, not in combination with any other commercial fertilizer or agricultural mineral, are classified, pursuant to NRS 588.164, as restricted-use commercial fertilizers or agricultural minerals:*

1. Ammonium nitrate.

2. Anhydrous ammonia.

Sec. 3. *1. A person required by NRS 588.295 to maintain a record of the sale of restricted-use commercial fertilizers or agricultural minerals shall include in that record a unique number that provides positive identification of the buyer.*

2. The unique number must be obtained from an identification document that:

(a) Is issued by a governmental authority; and

(b) Includes a photograph of the buyer.

3. The person maintaining the record shall visually inspect the original or a photostatic or other copy of the identification document:

(a) Before the first sale or delivery to a buyer; and

(b) If subsequent sales or deliveries are made to that buyer, not less than annually thereafter.

4. As used in this section, “buyer” means the person to whom the restricted-use commercial fertilizer or agricultural mineral is sold or delivered.

Sec. 4. *A person required by NRS 588.295 to maintain a record of the sale of restricted-use commercial fertilizers or agricultural minerals shall make the record available to the Director upon request.*

Sec. 5. 1. *A person shall not sell, offer for sale or distribute a commercial fertilizer or agricultural mineral if it is adulterated.*

2. For the purposes of this section, and except as otherwise provided in subsection 3, a commercial fertilizer or agricultural mineral is adulterated if:

(a) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when:

(I) It is applied in accordance with the directions for use on the label or tag; or

(II) Adequate warning statements or directions for use which may be necessary to protect beneficial plant life, animals, humans, aquatic life, soil or water are not shown on the label or tag;

(b) Its actual composition differs from that set forth on the label or tag; or

(c) It contains unwanted crop seed or weed seed.

3. A commercial fertilizer or agricultural mineral is not adulterated solely because it contains one or more additional plant nutrients as set forth in NAC 588.050.

Sec. 6. 1. *Except as otherwise provided in subsection 2, the Director hereby adopts by reference “Statement of Uniform Interpretation and Policy No. 25” in the form most recently published by the Association of American Plant Food Control Officials in its Official Publication, unless the Director gives notice pursuant to this section that the most recent revision is not suitable for this state.*

2. Any reference in “Statement of Uniform Interpretation and Policy No. 25” to “section 13(a) of the Uniform State Fertilizer Bill” shall be deemed to be a reference to “section 5 of this regulation.”

3. *If “Statement of Uniform Interpretation and Policy No. 25” is revised, the Director will, not later than 6 months after the date of the publication of the revision, determine, after notice and hearing, whether the revision is suitable for this state. Not less than 30 days after the Director makes his determination, he will:*

(a) If the Director determines the revision is suitable, file one copy of the revision with the Secretary of State and one copy with the State Library and Archives Administrator, and make at least one copy available for public inspection with his regulations; or

(b) If the Director determines that the revision is not suitable, file one copy of the determination with the Secretary of State, the State Library and Archives Administrator and the Legislative Counsel, and make at least one copy available for public inspection with his regulations.

4. *The Official Publication, which contains “Statement of Uniform Interpretation and Policy No. 25,” is available from the Association of American Plant Food Control Officials, P.O. Box 33508, Raleigh, NC 27636-3508 for the price of \$30.*

Sec. 7. 1. *For the purpose of exempting commercial fertilizers and agricultural minerals that are not used for agricultural purposes from the license fees and reporting requirements of NRS 588.210, the Director interprets “agricultural” as used in NRS 588.215 to include “horticultural.”*

2. *As used in this section, “horticultural” includes, without limitation:*

(a) The cultivation of plants for ornamental or decorative purposes; and

(b) The maintenance of lawns or turf.

Sec. 8. *NAC 588.050 is hereby amended to read as follows:*

588.050 1. Additional plant nutrients, besides *the primary nutrients*, nitrogen, phosphorus and potassium, when mentioned or claimed on the label or container, must be registered and guaranteed. Guarantees must be made on the elemental basis. Sources of the elements guaranteed must be shown on the application for registration. ~~[When]~~ *Except as otherwise provided in subsection 3, when* claims for such nutrients are made on the label, container or application for registration, the minimum percentages which will be accepted for registration are as follows:

Element	Percentage
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

2. Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use of the fertilizer must be furnished with the application for registration. Warning or caution statements are required on the label for any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum. Any of the above-listed elements which are guaranteed must appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

3. The provision set forth in subsection 1, which establishes the minimum percentages of additional plant nutrients which will be accepted for registration of a brand and grade of commercial fertilizer or agricultural mineral, does not apply to a commercial fertilizer or agricultural mineral that is sold, offered for sale or distributed as a ready-to-use or similar product, including, without limitation, a foliar fertilizer, horticultural growing medium or hydroponic fertilizer.

Sec. 9. 1. This section and sections 1 and 5 to 8, inclusive, of this regulation become effective when filed by the Legislative Counsel with the Secretary of State.

2. Sections 2, 3 and 4 of this regulation, if filed by the Legislative Counsel with the Secretary of State, become effective on July 1, 2004.