

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

**LCB File No. R087-05**

§§1, 3 effective January 1, 2006

§2 effective July 1, 2006

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

AUTHORITY: §1, NRS 586.270; §2, NRS 588.170; §3, NRS 586.401.

A REGULATION relating to agriculture; increasing the fees for the registration of pesticides, commercial fertilizers and agricultural minerals; and providing other matters properly relating thereto.

**Section 1.** NAC 586.011 is hereby amended to read as follows:

586.011 1. Each registrant ~~[shall]~~ *must* pay an annual registration fee of ~~[\$60]~~ *\$100* for each pesticide registered.

2. The Director will deposit in a separate account ~~[for the disposal of pesticides, \$5], \$15~~ of each annual registration fee collected pursuant to subsection 1 . ~~[, not to exceed \$35,000 annually.]~~ *The money in the account will be used to:*

*(a) Monitor and dispose of pesticides;*

*(b) Protect groundwater and surface water from contamination by pesticides; and*

*(c) Eradicate and control noxious weeds.*

**Sec. 2.** NAC 588.035 is hereby amended to read as follows:

588.035 An application for the registration of a brand and grade of commercial fertilizer or agricultural mineral must be accompanied by a registration fee of ~~[\$40]~~ *\$60* for each combined registration of brand and grade.

**Sec. 3.** 1. This section and section 1 of this regulation become effective on January 1, 2006.

2. Section 2 of this regulation becomes effective on July 1, 2006.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R087-05**

The Director of the State Department of Agriculture adopted regulations assigned LCB File No. R087-05 which pertain to chapters 586 and 588 of the Nevada Administrative Code on September 30, 2005.

**Notice date:** 9/18/2005  
**Hearing date:** 9/28/2005

**Date of adoption by agency:** 9/30/2005  
**Filing date:** 11/17/2005

**INFORMATIONAL STATEMENT**

**1. 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.**

A workshop on draft regulations was held on July 26, 2005 at the Department offices in Reno with video conference access from the Department office in Las Vegas. This workshop was noticed at all department office locations, Public Libraries and the State Library on July 11, 2005. The Las Vegas Review Journal, Nevada Board of Agriculture and Legislative Counsel Bureau were also informed. Industry organizations were also notified (See section 3 below) A summary of the workshop is attached.

A subsequent hearing was held on September 28, 2005 at the above locations with the same posting and mailing list. A summary of the hearing is attached.

A copy of the written comments may be obtained by calling the Nevada Department of Agriculture at (775) 688-1180 or by writing to the Department at 350 Capitol Hill Avenue, Reno NV 89502

**2. The number persons who:**

**(a) Attended each hearing:** 9 (Workshop), 5 (Hearing)

**(b) Testified at each hearing:** 9 (Workshop), 3 (Hearing)

**(c) Submitted to the agency written comments:** Comments were submitted to the workshop by Tim Playford of Dow Agrosiences, Janet Valle of the US Forest Service, the Consumer Speciality Products Association (CSPA) and the American Pet Products Manufacturers Association (APPMA) these letters were also read into the record of the hearing along with a letter submitted at the hearing on behalf of the Nevada Farm Bureau Federation.

**3. 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 businesses by the notices as described in outlined in #1, by postings on the Nevada Department of Agriculture and Legislative Council Bureau Web sites and by email to interested persons and the trade associations for pesticide and fertilizer

registrants (CropLife America, Chemical Producers & Distributors Association (CPDA), CSMA and The Fertilizer Institute (TFI). APPMA was added to this list for the hearing notice. A presentation by Nevada Department of Agriculture representatives was made to the Nevada Farm Bureau.. Comments from interested businesses are outlined in the attached workshop and hearing summaries. A copy of the written comments may be obtained by calling the Nevada Department of Agriculture at (775) 688-1180 or by writing to the Department at 350 Capitol Hill Avenue, Reno NV 89502

**4. 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 at the Nevada Board of Agriculture Meeting in Reno, NV on September 30, 2005. The petition was adopted without changes. As outlined in the workshop report, changes requested by industry submitted comments were outside the scope of the regulation requiring either legislative action or administrative policy changes.

**5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

(a) Total gross cost to the regulated industries is estimated at \$363,000. The effect on individual registrants will range from a few thousands for large manufacturers with many registered products to \$20 or \$40 for very small registrant companies with a single fertilizer or pesticide product. Fee levels are comparable with other states. Some brands may be eliminated from the market, but in past experience very little of this has occurred. Generally, only products with very marginal sales are affected. There should be no significant long term increase in cost beyond the immediate effect of the fee increase. (See also attached report from the Workshop held on these proposed amendments for comments from registrant's representatives.)

The regulated industries gain a 'level playing field' in which to do business. The Nevada Department of Agriculture, in performing its duties under NRS 586 and NRS 588, polices the quality of pesticide and fertilizer offered for sale and distributed in Nevada and eliminates unregistered products from the market. It would be cost prohibitive for individual registrants to attempt this in multiple states including Nevada.

(b) Some measure (but not all) of the fee increase may be expected to be passed on as part of routine price increases. Some brands may be eliminated from the market, but in past experience very little of this has occurred. Generally, only products with very marginal sales are affected. Sales of products marketed to even small agricultural markets normally occur at levels that make any state registration fee marginal, so growers should still have the products they need available to them.

The public gains protection from fraudulent and hazardous products in addition to public health and environmental oversight. Costs of misuse can be in the millions of dollars to affected

parties. State of the art analytical services are available to the people of the State of Nevada and other agencies during emergencies and other situations.

Failure to control invasive weeds can result in economic damage, as arable and grazing land may be permanently removed from production. Uncontrolled weeds may also lead to constant expense if allowed to become endemic.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

**7. A description of any regulations of other state or government agencies that 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.**

There are no other state or government agency regulations that the proposed amendments duplicate.

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

Section 24 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) gives States the Authority to regulate the sale of pesticides. The regulations do not conflict with or exceed FIFRA.

**9. 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.**

This regulation does not provide or involve a new fee, and hence since no fee is involved, there is not a total amount expected to be collected or used.

For a variety of needs and uses, we are proposing to increase registration fees for pesticide and fertilizer products in Nevada.

a. SB293 of the 2005 Nevada Legislature authorized the use of a portion of pesticide registration fees for weed control. It is proposed to fund a position using this source.  
**Cost: \$10.00 per pesticide product, Total expected receipts: \$80,000\***

b. Reduced EPA grant funding coupled with salary increases, indirect cost recovery and other operating expense increases have seriously reduced the value of the EPA grant. In order to maintain the programs, two actions are proposed:

Transfer the Chemist 4 position from the EPA grant to the Agriculture Registration & Enforcement Account (ARE).

**Cost: \$10.00 per pesticide product, Total expected receipts: \$80,000\***

Transfer funds from the ARE Account to support the funding of EPA pesticide programs.

**Cost: \$5.00 per pesticide product, Total expected receipts: \$40,000\***

c. Increased salaries, operating costs, various state cost recovery loads and administrative costs have all put pressure on the ARE account. It is also essential to continue funding equipment costs at a reasonable level. In recent years we have calculated this based on depreciation of existing equipment and have transferred funds into a separate G/L account specified for this purpose. Without this funding the laboratories will quickly be unable to maintain their current very high standards of service and currency with modern accepted analytical methods.

**Cost: \$15.00 per pesticide product, Total expected receipts: \$120,000\***

**Cost: \$20.00 per fertilizer product, Total expected receipts: \$43,000\***

**Total all expected receipts from pesticide registration fees: \$320,000\***

**Total all expected receipts from fertilizer registration fees: \$43,000\***

\*Based on current registration levels of 8,000 pesticide brands and 2,300 fertilizer brands and grades

All positions referred to in this description are already in existence. No new positions are created by these amendments.