

**ADOPTED REGULATION OF THE  
STATE BOARD OF AGRICULTURE**

**LCB File No. R147-16**

Effective December 21, 2016

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

AUTHORITY: §1, NRS 561.105 and 588.210; §2, NRS 588.210; §3, NRS 588.164 and 588.170.

A REGULATION relating to fees; deleting provisions which waive certain quarterly tonnage fees for sales of commercial fertilizers and agricultural minerals; imposing a fee for failure to pay the tonnage fees when due; increasing the tonnage fees for the sale, distribution or offering for sale of commercial fertilizers and agricultural minerals; increasing the fee for registering commercial fertilizers and agricultural minerals; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the registrant of each brand of commercial fertilizer or agricultural minerals to pay certain fees to the State Department of Agriculture for each ton sold and to report to the Department the total tonnage sold, unless the responsibility for reporting and payment has been assigned to another person by contract. (NRS 588.210) Existing law and regulations require that tonnage sales reports be made using forms prepared by the Department for that purpose. (NRS 588.210; NAC 588.020) Existing law also requires that quarterly tonnage fees be paid to the Department at a rate established by regulation of the State Board of Agriculture. (NRS 588.210) The regulations establishing the tonnage fee must specify the amount of the fee for each ton of agricultural minerals that is sold in packages and the amount of the fee for each ton of those minerals that is sold in bulk. (NRS 588.210) Under existing regulations, the fee for quarterly sales or distribution of 20 tons or more of commercial fertilizers is 25 cents per ton. The fee for quarterly sales or distribution of 20 tons or more of agricultural minerals sold in packages is 25 cents per ton. The fee for quarterly sales or distribution of 100 tons or more of agricultural minerals sold in bulk is 5 cents per ton. No fee is currently required for quarterly sales or distribution of commercial fertilizer or agricultural minerals in quantities smaller than the foregoing amounts. (NAC 588.025) Existing regulations also require a person applying for the registration of a brand and grade of commercial fertilizer or agricultural mineral to pay a registration fee of \$60 for each combined registration of brand and grade. (NAC 588.035)

**Section 1** of this regulation removes duplicative provisions requiring that tonnage sales reports be submitted on forms supplied by the Department and also removes a provision waiving tonnage fees when the amount owed is \$1 or less. **Section 1** also imposes an additional fee which

must be paid to the Department if the tonnage fee is not paid within 15 days after the date that the fee is due.

**Section 2** of this regulation revises the quarterly fee for sales or distribution of commercial fertilizers or agricultural minerals of 20 tons or more to 30 cents per ton, regardless of whether the commercial fertilizers or agricultural minerals are sold in packages or in bulk. **Section 2** also provides that the fee for quarterly sales or distribution of commercial fertilizers or agricultural minerals of less than 20 tons is \$5 per quarter. **Section 3** of this regulation raises the fee for registering a brand and grade of commercial fertilizer or agricultural mineral to \$80 for each combined registration of brand and grade.

**Section 1.** NAC 588.020 is hereby amended to read as follows:

588.020 1. A tonnage report on sales of commercial fertilizers and agricultural minerals, together with the tonnage fee, must be submitted quarterly on or before the 15th day of the following month (15th day of April, July, October and January).

2. ~~Reports must be made on forms supplied by, and checks for the tonnage fee must be made payable to, the Department. A quarterly fee in an amount of \$1 or less need not be paid.~~ *If the tonnage fee required pursuant to subsection 1 is not submitted within 15 days after the date on which the tonnage fee is due, the person responsible for paying the tonnage fee must pay, in addition to the tonnage fee, a fee in the amount of 50 percent of the tonnage fee.*

**Sec. 2.** NAC 588.025 is hereby amended to read as follows:

588.025 ~~1.~~ Except as otherwise provided in NRS 588.210 and 588.215 and NAC 588.030, a person who offers for sale, sells or distributes in this State commercial fertilizers or agricultural minerals, or both, shall pay to the Department the following fees:

~~(a)~~ 1. For quarterly sales or distribution of commercial fertilizers *or agricultural minerals* of 20 tons or more, ~~25~~ *whether sold in packages or in bulk, 30* cents per ton ~~;~~ and

~~(b) For agricultural minerals:~~

~~(1) If sold in packages, for quarterly sales or distribution of 20 tons or more, 25 cents per ton; and~~

~~—— (2) If sold in bulk, for quarterly sales or distribution of 100 tons or more, 5 cents per ton.~~  
*; or*

2. ~~[No fees are required to be paid for quarterly sales or distribution of commercial fertilizers or agricultural minerals in quantities smaller than those established in subsection 1.]~~  
*For quarterly sales or distribution of commercial fertilizers or agricultural minerals of less than 20 tons, whether sold in packages or in bulk, \$5 per quarter.*

**Sec. 3.** 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 ~~[\$60]~~ **\$80** for each combined registration of brand and grade.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R-147-16**

- 1. A clear and concise explanation of the need for the adopted regulation.**  
The division is funded by fees which are presently not adequate to cover the operating costs.
- 2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent either by email or U.S. mail to the regulated industry or to persons who were known to have an interest in the subject of Fertilizer, Agricultural Minerals and Tonnage Fees, as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDA) [www.agri.nv.gov](http://www.agri.nv.gov), mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431-5566

Nevada Department of Agriculture  
2150 Frazer Avenue  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 E. St Louis Avenue  
Las Vegas, NV 89104-4314

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89801-4672

Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture  
Attn: Ruth Tietjen, Administrative Assistant  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

- 3. The number of persons who:**
  - (a) Attended each hearing:**
  - (b) Testified at each hearing:**
  - (c) Submitted written comments:**

Workshop date: 5/16/2016  
Number in attendance: 1 (NDA staff)  
Number testifying: 0  
Written statements submitted: 0

Hearing date: 10/17/2016  
Number in attendance: 3 (NDA staff)

Number testifying: 0  
Written statements submitted: 0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
- (a) **Name;** None
  - (b) **Telephone number;** None
  - (c) **Business address;** None
  - (d) **Business telephone number;** None
  - (e) **Electronic mail address;** and None
  - (f) **Name of entity or organization represented.** None

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comment was solicited by emailing the notice of intent to adopt regulations, including the proposed changes, to all businesses currently registered with the NDA. Business owners were asked to provide comment by attending the workshop and/or hearing or submit written comment. No affected business personal or members of the public attended the meetings and no written comments were received.

Interested persons may obtain a copy of the summary by contacting:  
Nevada Department of Agriculture  
Attn: Ruth Tietjen, Administrative Assistant  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

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.**

No comments or suggested edits were submitted by the public or industry.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**
- (a) **Estimated economic effect on the businesses which they are to regulate.**  
Slightly increased fees for registration and tonnage.
  - (b) **Estimated economic effect on the public which they are to regulate.**  
This regulation has no direct economic impact on the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**  
There is no added cost.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or**

**overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

Does not apply

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

Does not 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.**

This proposed fee increase will generate approximately \$100,000 in increased revenue which will be used to cover the operating costs of division.