

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

LCB File No. R035-04

Effective November 13, 2006

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

AUTHORITY: §1, NRS 588.295.

A REGULATION relating to restricted-use commercial fertilizers and agricultural minerals; establishing the annual fee to register with the Director of the State Department of Agriculture to sell, offer to sell or to distribute a restricted-use commercial fertilizer or agricultural mineral; establishing under certain circumstances the penalty fee for the untimely renewal of such a registration; and providing other matters properly relating thereto.

Section 1. Chapter 588 of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. The annual fee to register with the Director pursuant to NRS 588.295 to sell or offer to sell at retail, or to distribute or deliver for transportation for delivery to the consumer or user, a restricted-use commercial fertilizer or agricultural mineral is \$25.*
- 2. Except as otherwise provided in NRS 588.295, the penalty fee if a person fails to renew his previous registration on or before February 1 next following its expiration is \$25.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R035-04**

The State Board of Agriculture adopted regulations assigned LCB File No. R035-04 which pertain to chapter 588 of the Nevada Administrative Code on December 10, 2004.

Notice date: 11/2/2004
Hearing date: 12/2/2004

Date of adoption by agency: 12/10/2004
Filing date: 11/13/2006

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 January 29, 2004 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 December 22, 2003 . The Las Vegas Review Journal, Nevada Board of Agriculture and Legislative Counsel Bureau (LCB) were also informed. Industry organizations were also notified (See section 3 below) A summary of the workshop is attached.

Following submission of draft regulations to LCB, the regulation was split into two parts according to Fee collection authority, LCB R242-03 and LCB R035-04 (see separate filing and attached notice from LCB)

A subsequent hearings was held on December 2, 2004 at the above locations with the same posting and mailing list. Summaries of the hearings are 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: 8 (Workshop), 6 (Hearing)

(b) Testified at each hearing: 7 (Workshop), 5 (4 Hearing)

(c) Submitted to the agency written comments: Comments were submitted to the workshop by mail, phone and email from 2 fertilizer manufacturers, 2 trade associations representing fertilizer manufacturers & distributors and 2 additional agricultural dealers.

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 law enforcement and the trade associations including Nevada Restricted Use Pesticide Dealers, Nevada Nurseries, Nevada Fertilizer Registrants, The Fertilizer Institute, Federal Bureau of Investigation (FBI), US Bureau of Alcohol Tobacco & Firearms (ATF), State & Local Law Enforcement agencies. 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 on December 10, 2004. Meeting in Reno, NV on September 30, 2005. The petition was adopted without changes to the Revised LCB Draft of September 21, 2004. The fee was not regarded as significant by industry Workshop & Hearing attendees.

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 due to fees imposed by the related regulation is estimated at less than \$1000.00. The effect on individual dealers was not considered significant. Fee levels and paperwork burden were not considered significant by industry representatives.

(b) Some measure (but not all) of the fee may be expected to be passed on as part of routine price increases. Relatively little of the affected fertilizer materials are currently used in Nevada.

The public gains protection from reduction in the likelihood of fertilizers being used to formulate explosives and illegal drugs.

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

The economic cost is expected to be minimal. The system for registering dealers in restricted fertilizers will be adapted from that already in place for restricted pesticide dealers.

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.

NA

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 provide for a new fee. The associated regulation collects a \$25.00 license fee from the new group of Restricted Fertilizer Dealers. Total collections will be less than \$1000.00. This is the same as the current fee for Restricted Pesticide Dealers and will cover the small administrative costs of the program.

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