

## STATEMENT OF EMERGENCY

### JUSTIFICATION:

The State of Nevada is facing a potentially high activity fire season due to drought conditions and the Nevada Division of Forestry is attempting to create options to lessen the severity of wildfires. Assembly Bill 163 of the 78<sup>th</sup> Session amended NRS 472, enabling the creation of Rangeland Fire Protection Associations (RFPAs). The bill was signed into law by Governor Brian Sandoval on June 4, 2015.

### BACKGROUND:

The RFPA program is strictly voluntary by the public and enables remotely located residents to be trained, equipped and respond to wildland fires with the intent to control wildland fires at their smallest size through quick mitigation. This is a collaborative process between federal, state and local fire agencies. The RFPA model is proven in other States and will become a highly valuable asset to fire departments at all levels of government and in all jurisdictions.

### PROPOSED:

Assembly Bill 163 became effective June 4, 2015, "for the purposes of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act and for all other purposes, on the earlier of January 1, 2016, or the date on which the State Forester Firewarden adopts a temporary regulation, and emergency regulation or a permanent regulation pursuant to chapter 233B of NRS and section 3.5 of this act concerning the formation, operation, and training of the members of a rangeland fire protection association."

Parallel to this request for endorsement of emergency regulations, the Nevada Division of Forestry is completing the process for adoption of Permanent Regulations; however, due to the impending high activity of this year's fire season, this request will accelerate RFPA implementation.

### ENDORSEMENT REQUEST:

Therefore, for the above reasons, I respectfully request the Governor of the State of Nevada endorse this Statement of Emergency allowing the Nevada Division of Forestry to implement AB163 Rangeland Fire Protection Associations upon signature.

#### Requested:



Robert Roper  
Nevada State Forester Firewarden

#### Endorsed:



Brian Sandoval  
Governor

SECRETARY OF STATE  
FILING DATA

**Form For Filing  
Administrative Regulations**

FOR EMERGENCY  
REGULATIONS ONLY

Effective date \_\_\_\_\_

Expiration date \_\_\_\_\_

**Agency:** Nevada Division of  
Forestry, Department of  
Conservation and Natural Resources

Emergency Regulations  
LCB File No. TBD



Governor's signature

**Classification:** EMERGENCY

**Brief description of action:** Adoption of Emergency Regulations pursuant to Assembly Bill 163 of the 78th Session of the Nevada Legislature enacting the formation and operation of Rangeland Fire Protection Associations to detect and suppress, during the incipient fire stage, wildland fires in rural areas of Nevada.

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**Authority citation other than 233B:** AUTHORITY: NRS 472 per AB 163, Sec. 3.5(1) of the 78th Session of the Nevada Legislature.

**Notice date:**

**Date of Adoption by Agency:**

**Hearing date:**

**PROPOSED REGULATION OF THE DIVISION OF FORESTRY, IN THE  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

**LCB File No. Exxx-15**

July 2, 2015

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

AUTHORITY: Assembly Bill 163 of the 78<sup>th</sup> Session of the Nevada Legislature.

A REGULATION relating to Creation of Rangeland Fire Protection Associations and Formation and Approval by boards of county commissioners or NRS 474 Fire Districts; specifying the type of entity that qualifies for the organization process; requiring a process for Association formation; providing a process for approval of an association by a board of county commissioners or the State Forester Firewarden, or both in a cooperative process; providing for and delineating management structure and other requirements for an Association; requiring a minimum amount of liability insurance and providing for a review process for the possible adjustment of those minimums; establishing minimum qualifications and standards for Association members; authorizing and providing a process for a three-way agreement with the Division of Forestry, board of commissioners, and an Association; requiring compliance with operations and scope requirements in NAC *bbb.bbb*; detailing agreements that may be entered into with an NRS 474 Fire District; and other matters properly relating thereto.

**RANGELAND FIRE PROTECTION ASSOCIATIONS (NAC *aaa.aaa*)**

**Section 1.** Chapter *aaa* of NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 6 of this regulation.

**Sec. 2.** *A Rangeland Fire Protection Association:*

*(a) May be formed by a business entity, cooperative, or any two or more persons who own, lease, produce agriculture or occupy property; and*

*(b) Must be established through a petition for approval to the respective board of county commissioners.*

**Sec. 3.** *A Rangeland Fire Protection Association may receive petition approval from a board of county commissioners if the association:*

*(a) Meets the requirements established by the board of county commissioners for the creation, operation and duties of such an association, the requirements of which may be established by the board or designated to be the same as those found in this regulation; and*

*(b) Provides the board of county commissioners a copy of a written approval notice from the State Forester Firewarden that the proposed association meets all requirements found in NAC aaa.aaa and NAC bbb.bbb; and*

*(c) Satisfies evaluation by the board of county commissioners and the State Forester Firewarden, both at the time of approval, and annually thereafter, of the following:*

*(i) Adequate governance and management structure to include appointment of a chairperson to lead and govern meetings of the association; appointment of a Supervisor/Incident Commander and Assistant Supervisors as necessary; submittal of a delineated boundary map within which the association will operate.*

*(ii) Adequate liability insurance of no less than \$100,000, but in an amount determined annually through a consensus of board of county commissioners consultation with county risk management and State Forester Firewarden consultation with state risk management.*

*(iii) Satisfactory condition and maintenance of vehicles and equipment used by the association in carrying out its duties as determined through an initial, and thereafter annual, on-site inspection of vehicles and equipment by qualified staff of the State Forester Firewarden and review of applicable maintenance records.*

*(iv) Evaluation of training and qualifications of association members and the association's commitment to train, equip and deploy association members at a minimum Firefighter II level as certified by their respective agency having jurisdiction based on training*

*standards found in the National Wildland Fire Qualification System Guide, PM 310-1, or its successor should the guide be amended.*

*(d) A board of county commissioners may delegate, in writing, the performance of the entire evaluation to the State Forester Firewarden, who will report the results of the evaluation to the board.*

*(e) A board of county commissioners may enter into a three-way agreement with the Nevada Division of Forestry pursuant to NRS 472.060 and 472.070, and as a party to the division's authority to contract with a Rangeland Fire Protection Association to perform a government service, activity or undertaking pursuant to NRS 277.180. A Rangeland Fire*

*Sec. 4. Protection Association may enter into an annual contract with the Nevada Division of Forestry if it:*

*(a) Is a nonprofit unincorporated association or a nonprofit corporation formed for the purpose of protecting rangeland from wildfire.*

*(b) Has received approval of its formation petition by the respective board of county commissioners pursuant to Section 1 and 2 of this regulation.*

*(c) Complies with the additional scope and operational requirements of the Nevada Division of Forestry found in NAC bbb.bbb.*

*Sec. 5. A Rangeland Fire Protection Association, as defined in Section 1 of this regulation, may also petition a Fire District established pursuant to NRS 474 for approval of the formation of an association.*

*Sec. 6. A Rangeland Fire Protection Association within an NRS 474 Fire District differs from that established by a board of county commissioners as follows:*

*(a) The board of directors of a county fire protection district, as described in NRS 474.010 to 474.450, or the board of fire commissioners of the district, as described in NRS474.460, is the body that evaluates the criteria delineated in Sections 2 and 3 of this regulation prior to association approval.*

*(b) The board of directors of a county fire protection district, as described in NRS 474.010 to 474.450, or the board of fire commissioners of the district, as described in NRS474.460, may delegate, in writing, the performance of the evaluation to the State Forester Firewarden, who will report the results of the evaluation to the board.*

*(c) The board of directors of a county fire protection district, as described in NRS 474.010 to 474.450, or the board of fire commissioners of the district, as described in NRS474.460, pursuant to Assembly Bill 163 of the 78<sup>th</sup> session, Section 3.5 (2.), will receive recommendations from the State Forester Firewarden concerning formation, operation and training of members of a rangeland fire protection association, but are not bound in their approval process by the regulations found in sections 1 through 3 of this regulation.*

*(d) The board of directors of a county fire protection district, as described in NRS 474.010 to 474.450, or the board of fire commissioners of the district, as described in NRS474.460, may enter into a three way agreement with the Nevada Division of Forestry pursuant to NRS 472.060 and 472.070, and as a party to the division's authority to contract with a Rangeland Fire Protection Association to perform a government service, activity or undertaking pursuant to NRS 277.180.*

*(i) The specifics of the agreement will follow the criteria for establishment of Rangeland Fire Protection Associations by boards of county commissioners, but may vary as mutually*

*agreed to by all three parties, the NRS 474 Fire District, the Nevada Division of Forestry and the proposed Rangeland Fire Protection Association.*

**PROPOSED REGULATION OF THE DIVISION OF FORESTRY, IN THE  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

**LCB File No. Exxx-15**

July 2, 2015

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

AUTHORITY: Assembly Bill 163 of the 78<sup>th</sup> Session of the Nevada Legislature.

A REGULATION relating to Operations, Scope and Requirements; requiring limits on the scope of a Rangeland Fire Protection Association's boundaries, membership, and engagement; providing for communication protocols; allowing mutual aid agreements; requiring as part of an interlocal contract certain requirements to be contained therein; and other matters properly relating thereto.

**OPERATIONS, SCOPE AND REQUIREMENTS (NAC bbb.bbb)**

**Section 1.** *Chapter bbb of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.*

**Sec. 2.** *The Nevada Division of Forestry will require a Rangeland Fire Protection Association to abide by the following limits of scope:*

*(a) The members shall be derived from within a Rangeland Fire Protection Association's boundaries as the association was formed pursuant to NAC aaa.aaa.*

*(b) The association boundaries shall represent the common interests of the association's membership and be proportionate to the membership size.*

*(c) The association shall limit its engagement to initial attack functions; limit its response to areas clearly within the association boundaries, or to boundary fires within ½ mile of the association boundary or as further defined in the Interlocal contract; and will be limited to no interior structure firefighting.*

*(d) The association may undertake an immediate suppression action for boundary fires on adjacent protection areas, but must communicate immediately with the adjacent protection agency and communicate fire occurrence and association involvement.*

*(e) The association may enter into mutual aid agreements with adjacent fire protection districts as appropriate and with notification to the Nevada Division of Forestry.*

**Sec. 3.** *The Nevada Division of Forestry will require, as part of the Interlocal contract process, a Rangeland Fire Protection Association to:*

*(a) Initially, and annually thereafter, provide a written list of association resources available to provide fire protection during the next calendar year, including information on the number of personnel and types and numbers of available equipment.*

*(b) Maintain workers compensation coverage for all personnel in accordance with NRS 616A-616D.*

*(c) Enforce proper use and maintenance of Personal Protective Equipment (PPE) at all times.*

*(d) Adhere to proper radio etiquette and an approved radio plan for all radio communications equipment; including that issued to the association by state or federal fire agencies.*

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS  
REQUIRED BY  
ADMINISTRATIVE PROCEDURE ACT, NRS 233b.0613  
INFORMATIONAL STATEMENT**

**1. A clear and concise explanation of the need for the adopted regulation.**

The State of Nevada is facing a potentially high activity fire season due to drought conditions and the Nevada Division of Forestry is attempting to create options to lessen the severity of wildfires. Assembly Bill 163 of the 78<sup>th</sup> session amended NRS 472, enabling the creation of Rangeland Fire Protection Associations (RFPAs) and was signed into law by Governor Brian Sandoval on June 4, 2015.

The RFA program is strictly voluntary by the public and enables remotely located residents to be trained, equipped and respond to wildland fires with the intent to control wildland fires at their smallest size through quick mitigation. This is a collaborative process between federal, state and local fire agencies. The RFA model has proven successful in other States, and will become a highly valuable asset to all government fire departments.

**2. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.**

N/A

**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.**

N/A

**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.**

Regulation was adopted without change.

**5. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

**a. Estimate economic effect on the businesses which they are to regulate:**

None, the RFA program is strictly voluntary.

**b. Estimated economic effect on the public which they are to regulate:**

No impact to public. Federal fire agencies will provide training and equipment at no charge to the RFPA.

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

There is no additional cost.

**7. A description of any regulation of other state or government agencies which 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.**

None.

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

N/A

**9. If the regulation provides a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.**

None.

**10. Is the proposed regulation likely to impose a direct and significant economic burden upon small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

None, the RFPA program is strictly voluntary.