

**LCB File No. R051-00**

**PROPOSED REGULATION OF THE  
DEPARTMENT OF AGRICULTURE**

**NOTICE OF WORKSHOP**

A Workshop will be held on proposed amendments or repeal of the following Nevada Administrative Code:

1. Amendments to NAC 552 pertaining to bees and apiaries
2. Repeal of NAC 554.530 to NAC 554.580 pertaining to an exterior quarantine against sugar beet nematode.
3. Repeal of NAC 554.741 to 554.801 pertaining to an exterior quarantine against varroa mite.
4. Amendments to NAC 555.100 to NAC 555.231 pertaining to the regulation of nurseries and nursery stock.
5. Amendments to NAC 555.800 pertaining to vertebrae pest subject to control by the Diamond Valley rodent control district.
6. Amendments to NAC 583.161 pertaining to the standards for size and weight.

**DATE:** April 3, 2000

**TIME:** 9:00 a.m.

**PLACE:** Nevada Department of Agriculture-Reno office  
350 Capitol Hill Avenue  
Reno, Nevada 89502-2923

**For calcification on the proposed amendments, or to obtain a copy of the proposed amendments and repeals, contact Robert Gronowski at (775) 688-1182, ext. 239**

**Addresses at which the text of the proposed regulations may be inspected and copied:**

**The Nevada State Library in Carson City, and all county libraries. The Department of Agriculture offices in Reno, Sparks, Elko, or Winnemucca during the hours of 8:00 a.m. to 5:p.m., Monday through Friday.**

# NOTICE AND INTENT TO ADOPT REGULATIONS

## THE NEVADA DEPARTMENT OF AGRICULTURE

PROPOSED AMENDMENTS TO NAC 555.100 to 555.231 PERTAINING TO THE REGULATION OF NURSERIES AND NURSERY STOCK, AND NAC 555.800 PERTAINING TO THE VERTEBRATE PEST SUBJECT TO CONTROL BY THE DIAMOND VALLEY RODENT CONTROL DISTRICT.

### Need and purpose of the proposed amendments

The statutes pertaining to nurseries and nursery stock was amended in the last session. The amendments to the NAC harmonize with the statutory amendments which make clarification for the prevention of establishment of invasive species, which would cause economic, environmental and public health effects.

There is a change in the species name of Yellow-bellied marmot and a correct species name is required to take action against this vertebrate pest.

### Economic effect of these proposed amendments on the businesses which it is to regulate:

1. Adverse effects:

None.

2. Beneficial effects:

Nurseries will benefit from receiving stock certified free of invasive species. The invasive species free stock prevents economic, environmental and public health effects of established invasive species.

The Diamond Valley Rodent Control District will be able to take actions to control this marmot to prevent economic losses.

3. Immediate and long term effects:

The beneficial and adverse effects are the same for the immediate and long term economic effects.

### Economic effects of the proposed amendments on the public:

1. Adverse effects:

None

2. Beneficial effects:

Prevention of the entry and establishment of invasive species will prevent economic, environmental and public health effects that would occur if they became established

There are no beneficial effects on the public for the amendment to the list of vertebrate pests controlled by the Diamond Valley Rodent Control District.

3. Immediate and long term effects:

The immediate and long term effects are the same for both the adverse and beneficial effects.

Economic costs to the agency for enforcement of the proposed amendments:

Their will be no additional cost to the agency for enforcement.

Description of any regulations of any other state, local or federal regulation that the proposed amendments overlap or duplicate:

There are no other state, local or federal government regulations that these amendments overlap or duplicate.

Fees:

The proposed regulations do not contain any new fees or increase any existing fees.

The date time, place and manner in which interested parties may present their views on the proposed amendments:

**DATE:** April 3, 2000

**TIME:** 11:00 a.m.

**PLACE:** Nevada Department of Agriculture Office- Reno  
350 Capitol Hill Avenue  
Reno, Nevada 89502

**Manner:** Written comments and testimony may be submitted prior to the hearing date and will be included with any testimony presented at the hearing. All variable and written testimony will be in the record of the hearing.

**Address at which the text of the proposed regulations may be inspected and copied:**

**The Nevada State Library in Carson City, and all Nevada county libraries. The Department of Agriculture offices in Reno, Sparks, Elko, Las Vegas or Winnemucca during the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday.**

**Nevada Department of Agriculture  
350 Capitol Hill Avenue  
Reno, NV 89502**

**Nevada Department of Agriculture  
2150 Frazer Street  
Sparks, NV 89431**

**Nevada Department of Agriculture  
1550 S. Wells Avenue  
Reno, NV 89502**

**Nevada Department of Agriculture  
1200 E. Winnemucca Blvd.  
Winnemucca, NV 89445**

**Nevada Department of Agriculture  
Eyer H Boies Building  
1351 Elm Street  
Elko, NV 89801**

**Nevada Department of Agriculture  
2300 McLeod  
Las Vegas, NV 89104**

**NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, call Robert Gronowski at the Nevada Department of Agriculture, (775)-688-1182 Ext. 239 as soon as possible.**

**NRS 233B.064 Permanent regulations not to be adopted or revised by the Legislative Council; agency's reasons for adoption.**

2. Upon adoption of any regulation, the agency, if requested to do so by an interested person before adoption, or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

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**Paul Iverson, Director**

**Date**

# PROPOSED REGULATION OF THE DEPARTMENT OF AGRICULTURE

LCB File No. R051-00

## Proposed amendments to NAC 555.100 through NAC 555.231 pertaining to the regulation of nurseries and nursery stock.

Authority: NRS 555.243

NAC 555.100 Definitions. (NRS 555.2485) as used in NAC 555.100 to NAC 555.235, inclusive, unless the context otherwise requires, the words and terms defined in NAC 555.101 to NAC 555.109, inclusive, have the meanings ascribed to them in those sections.

NAC 555.101 "Bare-root nursery stock" defined. "Bare-root nursery stock" means any plant for transplanting which is dug without taking a mass of soil with the roots.

NAC 555.102 "Commercially clean" defined. "Commercially clean" means that common pests are under *effective* control and nursery stock offered for sale is in healthy condition.

NAC 555.1025 "Common pest" defined. "Common pest" means an established pest of general distribution within this state.

NAC 555.103 "Containerized stock" defined. "Containerized stock" means any plant which is potted in soil or a growing medium.

NAC 555.104 "Decorative" defined. For the purposes of paragraph (a) of subsection 1 of NRS 555.236, a plant is decorative if it is commonly grown or sold in movable containers and is not adapted for cultivation out of doors because of climatic conditions and natural peculiarities of habit or growth, and because of the purpose of its cultivation.

NAC 555.105 ~~["Economic pest"]~~ ***"Dangerously injurious pest"*** defined. ~~["Economic pest"]~~ ***"Dangerously injurious pest"*** means a pest ~~[of economic importance not known to exist or of limited distribution in this state.]~~ ***that constitutes a significant threat to the agricultural, forest, horticultural interests, the public or the general environmental quality of this state, is not known to exist or is in limited distribution in Nevada.***

NAC 555.106 "Eradicated" defined. A pest is "eradicated" if it has been subjected to a treatment known to be 100 percent lethal to all stages of the pest or has been subjected to control practices, and repeated inspections under favorable conditions have failed to reveal the pest. The number of repeated inspections will be determined by the director in accordance with scientific knowledge of the pest involved.

~~[NAC 555.107 "Intensively controlled" defined. A pest is "intensively controlled" if it has been subjected to a treatment known to be 100 percent lethal to all stages of the pest or has been subject to control practices and reinspection will not reveal the presence of a live pest.]~~

NAC 555.107~~[4]~~<sup>4</sup> "Notice of violation" defined. (NRS 555.2485) "Notice of violation" means a nursery inspection report or an interview notice issued by the division which:

1. Sets forth the statute or regulation that has been violated;
2. Sets forth what must be done with the nursery stock found in violation; and
3. Is signed by:
  - (a) A representative of the division; and
  - (b) The person who is in violation of the statute or regulation.

NAC 555.107~~[5]~~<sup>4</sup> "Notice of warning" defined. (NRS 555.2485) "Notice of warning" means a written notice issued by the division which sets forth:

1. The statute or regulation that has been violated; and
2. Any action which must be taken by the person in violation to remedy the violation.

NAC 555.107~~[6]~~<sup>5</sup> "Nursery stock" defined. (NRS 555.2485) "Nursery stock" means any product of the soil, including, without limitation, agricultural or horticultural crops, seeds, plants, trees or shrubs and any part or manufactured product thereof.

~~[NAC 555.108 "Serious pest" defined. "Serious pest" means a pest subject to state quarantine or statewide programs for eradication or a pest of serious economic importance which is not known to exist in this state or is of limited distribution.]~~

NAC 555.10~~[9]~~<sup>8</sup> "Under *effective* control" defined. "Under *effective* control" means the use of a program to control a common pest by using any available method including, but not limited to,

a program of sanitation and application of proper pesticides ~~[ ]~~ *that results in no more than a few individuals of any specific pest found on no more than a few plants in the block or lot of nursery stock.*

NAC ~~555.110~~<sup>[95]</sup> Issuance of notice of warning. (NRS 555.2485)

1. A notice of warning may be issued by the division for a first violation of any provision of chapter 555 of NRS or this chapter unless the violation was:

(a) The failure to comply with the disposition statement on a notice of violation within the time allowed pursuant to the notice of violation; or

(b) An intentional violation that would:

(1) Defraud a consumer; or

(2) Cause the nursery stock to be unsuitable for its intended purpose.

2. An administrative fine will not be assessed with a notice of warning issued pursuant to this section.

NAC ~~555.111~~<sup>[0]</sup> Exemption of out-of-state nursery. An out-of-state nursery making wholesale deliveries of nursery stock to a licensed retail nursery in this state is exempt from the nursery licensing requirements of NRS 555.236, if:

1. The out-of-state nursery possesses a valid nursery license issued under authority of the state having jurisdiction over the registered place of business; and

2. The out-of-state nursery notifies the director of the name and address of the consignee and the classification of all nursery stocks delivered by other than common carrier. The notice must be filed with the director within 72 hours after time of delivery. Notice may be given to the following offices:

~~[Department of Business and Industry]~~

Nevada ~~[Division]~~ *Department* of Agriculture

~~[Bureau]~~ *Division* of Plant Industry

350 Capitol Hill~~[, P.O. Box 11100]~~ *Avenue*

Reno, NV 895~~02-2923~~<sup>[10]</sup>

~~[Department of Business and Industry]~~

Nevada ~~[Division]~~ *Department* of Agriculture

~~[Bureau]~~ *Division* of Plant Industry

Southern District Office

Mailroom Complex

Las Vegas, NV 89158

~~[Department of Business and Industry]~~

Nevada ~~[Division]~~ *Department* of Agriculture

~~[Bureau]~~ *Division* of Plant Industry

Eastern District Office

E.H. Boise Building

~~[P.O. Box 630]~~ *1351 Elm Street*

Elko, NV 89801

~~[Department of Business and Industry]~~

Nevada ~~[Division]~~ *Department* of Agriculture

~~[Bureau]~~ *Division* of Plant Industry

~~[P.O. Box 442]~~ *1200 E Winnemucca Blvd*

Winnemucca, NV 89445

NAC 555.120 Classification of nursery stock. For the purposes of reporting classes of nursery stock, the following classifications must be used:

1. Deciduous trees/shade trees;
2. Evergreens;
3. Vines;
4. Small fruits;



5. Bulbs, corms, tubers;
6. Deciduous shrubs;
7. Roses;
8. Fruit trees; and
9. Bedding stock

**10. *sod***

NAC 555.130 Labeling of nursery stock; administrative fine. (NRS 555.243, 555.2485)

1. Nursery stock sold or offered for sale must be labeled plainly and legibly with the correct name and with the grade or size when so required by regulation. Nursery stock on display for sale may be labeled by a suitable sign on a block of stock of the same kind and species.

2. To identify nursery stock being delivered or transported to any purchaser, at least one label bearing the correct botanical name, commonly accepted name or both, must be attached to each separate species or variety, except when delivered to the purchaser on the premises and sold from a block of stock labeled with a suitable sign.

3. A person who fails to label or label correctly nursery stock in violation of this section shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:

- (a) For the first violation, \$50.
- (b) For the second violation, \$100.
- (c) For the third and any subsequent violation, \$200.

NAC 555.140 Botanical and common names; administrative fine. (NRS 555.243, 555.2485)

1. Botanical or common names of nursery stock must be those listed in "Standard Plant Names," Second Edition, American Joint Committee on Horticultural Nomenclature, 1942, published by J.Horace McFarland Company, Harrisburg, Pennsylvania, and any corrections, additions or changes thereto.

2. New plant names must be recognized by the American Nursery and Landscape Association, 1250 I Street NW, Suite 500, Washington D.C. 20005, and registered with the national society devoted to the genus or groups involved, including, without limitation, the

American Rose Society and the American Peony Society, or, for genera not represented by any national society, the registration must be made with the American Nursery and Landscape Association.

3. A person who labels or fails to label nursery stock in violation of this section shall, after notice and hearing, for each violation, pay an administrative fine of \$50.

NAC 555.150 Care and condition of nursery stock; administrative fine. (NRS 555.243, 555.2485)

1. Only sound, healthy nursery stock stored or displayed under conditions which will maintain its vigor may be offered for sale. Nursery stock when sold must be living stock and not dead or in a dying condition, and must not be broken, frozen, damaged or abnormally pot bound. A dying condition includes, without limitation, any nursery stock weakened by drying, excessive heat or cold, or any other condition which makes it unable to grow satisfactorily when given reasonable care.

2. Any deciduous fruit or nut tree must be free from twisted, crossed, frosted, broken or other defective roots, broken grafts and other defects which would interfere with the normal and proper development of the tree.

3. A person who displays or stores nursery stock in violation of this section shall, after notice and hearing for each violation pay an administrative fine in accordance with the following:

- (a) For the first violation, \$100.
- (b) For the second violation, \$200.
- (c) For the third and any subsequent violation, \$300.

NAC 555.160 Cleanliness of nursery stock; administrative fine. (NRS 555.243; 555.2485)

1. Any person selling, delivering, offering for sale or growing nursery stock shall maintain the following standards of cleanliness for all nursery stock and for the premises on which any nursery stock is grown, held or offered for sale:

(a) All nurseries and nursery stock must be free of ~~[serious and economic pests]~~ *Dangerously injurious pest* and commercially clean of common pests.

(b) Infestations or infections of pests that may develop in nurseries or on nursery stock are subject to the following minimum requirements:

- (1) A ~~[serious]~~ *Dangerously injurious* pest must be eradicated.

(2) ~~[An economic pest must be intensively controlled.]~~

~~(3)~~ 2) A common pest must be under *effective* control.

2. A person who violates this section shall, after notice and hearing for each violation pay an administrative fine in accordance with the following:

(a) For the first violation, \$50.

(b) For the second violation, \$100.

(c) For the third and any subsequent violation, \$200.

NAC 555.170 Waxed nursery stock prohibited. (NRS 555.243; 555.2485)

1. All nursery stock, plants, budwood, grafts, scions or any other plant part used for propagating purposes must be free of paraffin, wax or other coating, covering or material which, because of its opacity, thickness or color, interferes with or prohibits the free and unhampered examination and inspection of the aerial portion thereof.

2. A person who violates this section shall, after notice and hearing, for each violation pay an administrative fine of \$50.

NAC 555.175 Statement of age of nursery stock; administrative fine. (NRS 555.243; 555.2485)

1. If the age of nursery stock is stated on any advertisement, label or sign in connection with the sale or offering for sale or distribution of that stock, the age must be stated in years from the time at which the nursery stock was propagated. Each year must indicate the completion in autumn of one seasonal period of growth.

2. A person who violates this section shall, after notice and hearing, for each violation pay an administrative fine of \$50.

NAC 555.180 Pest classification. The director may determine the classification as among ~~[serious]~~ *dangerously injurious* pest~~[, economic pest,]~~ and common pest for all pest infestations found on nursery stock and publish a list of classifications for those pests~~[normally encountered].~~

NAC 555.190 Pest isolation and control; administrative fine. (NRS 555.243; 555.2485)

1. The director may require by a written order that any nursery stock found infested or infected be isolated in a manner approved by the director, and may specify that the infestation or infection be controlled or eradicated within a reasonable specified length of time.

2. A person who fails to control or eradicate the infestation or infection within the length of time specified by the written order in violation of this section shall, after notice and hearing, for each violation pay an administrative fine of \$50.

NAC 555.200 Standards for nursery stock: Adoption of publication by reference; review of change or amendment to publication; nursery stock graded by size. (NRS 555.243, 555.2485).

1. The division hereby adopts by reference the 1996 edition of "American Standards for Nursery Stock," together with any amendments or changes thereto which are found by the administrator to be suitable for this state pursuant to subsection 2. This publication is available from The American Nursery and Landscape Association, 1250 I Street NW, Suite 500, Washington, D.C. 20005, for the price of \$20.75.

2. The administrator shall review each change or amendment to the 1996 edition of "American Standards for Nursery Stock" and determine whether it is suitable for this state. Upon making a determination that such change or amendment:

(a) Is suitable, the administrator shall file one copy of it with the secretary of state, one copy with the state library and archives administrator and make at least one copy available for public inspection with the regulations of the division.

(b) Is unsuitable, the administrator shall file with the secretary of state and with the state library and archives administrator a notice which states that it was disapproved for this state and which has a copy of the change or amendment attached, and shall make at least one copy of the notice and attachment available for public inspection with the regulations of the division.

3. In addition to the standards adopted by reference pursuant to subsections 1 and 2, nursery stock if graded by size must have a well-developed root system.

NAC 555.210 Labels: Nursery stock graded by size. (NRS 555.243, 555.2485)

1. All nursery stock when offered for sale or sold by grade or size classification must have securely attached in a conspicuous place to each piece of nursery stock or to each container thereof, if sold individually, or securely attached to each bundle or lot when bundled or sold as a single lot of one kind, grade or size, a label plainly and legibly printed or written stating the grade or size of the nursery stock at the time it is sold or delivered. The designated grade or size statement must conform to the standards of grade or size classification approved for use in this state, and the label must not contain any word, character or device which obscures the meaning of this designation or statement as to grade and size.

2. A person who violates this section shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:

- (a) For the first violation, \$50.
- (b) For the second violation, \$100.
- (c) For the third and any subsequent violation, \$200.

NAC 555.215 Administrative fine: Failure to obtain license before engaging in commercial production, holding, distribution, collection or selling of nursery stock (NRS 555.2485) A person who engages in the commercial production, holding, distribution, collection or selling of nursery stock without first obtaining a license from the administrator, in violation of NRS 555.236, shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:

- 1. For the first violation, \$250.
- 2. For the second violation, \$500.
- 3. For the third and any subsequent violation, \$1,000.

NAC 555.221 Administrative fine: Prevention or interference with inspection of nursery. (NRS 555.2485) A person who prevents or interferes with the inspection of a nursery in violation of NRS 555.244 shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:

- 1. For the first violation, \$250.
- 2. For the second violation, \$500.
- 3. For the third and any subsequent violation, \$1,000.

NAC 555.225 Administrative fine: Shipment or receipt of nursery stock without inspection certificate. (NRS 555.2485) A person who ships or receives nursery stock without an inspection certificate, in violation of NRS 555.246 shall, after notice and hearing for each violation, pay an administrative fine of \$250.

NAC 555.231 Administrative fine: Failure to label nursery stock. (NRS 555.2485) A person who fails to label nursery stock in violation of NRS 555.247 shall, after notice and hearing, for each violation pay an administrative fine of \$250.

NAC 555.235 Administrative fine: Failure to treat, control, destroy or ship out infected nursery stock. (NRS 555.2485) A person who fails to treat, keep under his control, destroy or ship out of this state any infected nursery stock in violation of NRS 555.248 shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:

1. For the first violation, \$100.
2. For the second violation, \$200.
3. For the third and any subsequent violation, \$300.

For Any clarification on these amendments contact Robert Gronowski at (775)688-1182 Ext. 239

**Proposed amendment to NAC 555.800 Diamond Valley rodent control district. The following genera and species of lagomorphs and rodents are subject to control within the Diamond Valley rodent control district:**

Authority: NRS 555.540

Black-tailed jack rabbit (*Lepus californicus*)

Deer mice (*Peromyscus* species)

Meadow voles (*Microtus* species)

Northern pocket gopher (*Thomomys talpoides*)

Richardson's ground squirrel (*Spermophilus richardsoni*)

Southern pocket gopher (*Thomomys umbrinus*)

Townsend's ground squirrel (*S. townsendii*)

Yellow-bellied marmot (*Marmota flaviventris*)

For Any clarification on these amendments contact John O'Brien at (775) 688-1182, ext. 241.