

**LCB File No. R240-03**

**PROPOSED REGULATION OF THE  
STATE BOARD OF AGRICULTURE**

(Initial draft replaced by updated version 1/13/04; see R251-03)

**NOTICE OF INTENT TO ADOPT REGULATIONS**

Proposed amendment of NAC 555.100 to 555.235 pertaining to Nursery Stock and Nursery Stock Sales.

Need and purpose of the proposed amendments:

Nevada Revised Statute 555.100 to 555.235 was amended during the last legislative session and changes must be made to Nevada Administrative Code 555.100 to 555.235 to reflect these changes. Additional changes to Nevada Administrative Code 555.100 to 555.235 are being made to clarify the requirements for licensing of businesses that sell nursery stock and for the importation of nursery stock into the state.

Economic effects of these proposed changes on the businesses which it is to regulate:

1. Adverse effects:

No adverse effects to businesses which it is to regulate provided that they are in compliance with the requirements.

2. Beneficial effects:

Small businesses with gross annual sales of nursery stock of less than \$1,000.00 will now be allowed an exemption from the requirement to pay a license fee. Changes in the language of the chapter will clarify for businesses the requirements with regard to who must be licensed.

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:

Clarification of requirements for licensing of businesses which sell nursery stock will lead to more businesses obtaining licenses allowing the Department to increase pest interception and quality control for nursery stock being offered for sale to the public.

3. Immediate and long-effects:

None

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

There will be no additional cost to the agency for enforcement of the amendments.

Description of any regulations of any other state, local or federal regulations that the proposed amendments overlap or duplicate: None

**Fees:**

The proposed amendment contains a new exemption from the license fee for small businesses whose gross annual sales of nursery stock is less than \$1,000.00.

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

DATE: January 28, 2004 (Wednesday)  
TIME: 9:00 a.m.  
PLACE: Nevada Department of Agriculture Office, Reno  
350 Capitol Hill Avenue  
Reno, NV 89502

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DATE: January 29, 2004 (Thursday)  
TIME: 10:00 a.m.  
PLACE: Nevada Department of Agriculture Office, Las Vegas  
2300 McLeod  
Las Vegas 89104

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.

Addresses 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. The text may also be viewed on the website <http://agri.state.nv.us>.

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

Nevada Department of Agriculture

Eyer H Boies Building  
Elko, NV 809801

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 Peggy McKie at the Nevada Department of Agriculture, (775)688-1182 Ext. 243 as soon as possible.

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

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.

### NOTICE OF WORKSHOP

Workshop will be held on proposed changes of NAC 555.100 to .235 pertaining to nursery stock and nursery stock sales.

DATE: January 7, 2004 (Wednesday)  
TIME: 9:00 a.m.  
PLACE: Nevada Department of Agriculture, Reno office  
350 Capitol Hill Avenue  
Reno, NV 89502

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DATE: January 8, 2004 (Thursday)  
TIME: 10:00 a.m.  
PLACE: Nevada Department of Agriculture Office, Las Vegas  
2300 McLeod  
Las Vegas 89104

For clarification of the proposed amendments contact Peggy McKie at (775) 688-1182 extension 243.

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 5:00 p.m., Monday to Friday

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NAC 555.1098 Fees for nursery stock dealer license. ~~[; reduction of fees upon determination of financial hardship by director.]~~ (NRS 555.238)

~~[1.—Except as otherwise provided in subsection 3 NRS 555.236.1 (f) the minimum annual fee for a nursery license is \$130, to which must be added the following amount for each:~~

~~(a) Additional nursery of a licensee who has paid the minimum [nursery license] fee, \$130.~~

~~(b) Acre of nursery stock in production or portion thereof after the first acre, \$10 up to a maximum additional fee of \$200.~~

~~[(c) Agent acting on behalf of a licensed nursery established in this state and operating outside of the county in which the nursery is located, \$25.]~~

~~(d) Peddler, \$70.~~

~~[2.—The director may reduce the amount of the nursery license fee set forth in subsection 1 if:]~~

~~[(a) The applicant for the issuance or renewal of a nursery license submits a written request to the director that includes:~~

~~(1) If he is applying for a renewal of his nursery license the amount of income from the sale of nursery stock that he has received in the 12 months immediately preceding the date of the application and the amount of time that he has been operating a nursery; or~~

~~(2) If he is applying for an initial nursery license the amount of income from the sale of nursery stock he expects to receive in the 12 months immediately following the date of the application; and~~

~~(b) The director determines that the applicant has demonstrated that the payment of the fee set forth in subsection 1 would cause a financial hardship to the applicant that would preclude him from operating a nursery.~~

~~3.—If the director determines pursuant to subsection 2 that a financial hardship exists, the minimum annual fee for a nursery license is \$50, to which must be added the following amount for each:~~

~~(a) Additional nursery of a licensee who has paid the minimum nursery license fee, \$20.~~

~~(b) Acre of nursery stock in production or portion thereof after the first acre, \$2 up to a maximum additional fee of \$20.~~

~~(c) Agent acting on behalf of a licensed nursery established in this state and operating outside of the county in which the nursery is located, \$5.~~

~~(d) Peddler, \$50.]~~

*1. Except as otherwise provided in NRS 555.236 an applicant for a nursery stock dealer license must pay to the director for each business location a licensing fee in the following amount:*

*(a) For a nursery stock dealer license, a licensing fee of \$130.00.*

*(I) For each acre or portion thereof on which nursery stock is produced, after the first acre, \$20.00 up to a maximum of \$200.00.*

*2. For a peddler, a licensing fee of \$200.00. "Peddler" has the meaning ascribed to it in NRS 555.235.*

~~[4.—As used in this section:~~

~~(a) "Agent" has the meaning ascribed to it in NRS 555.238. 5~~

~~(b) "Peddler" has the meaning ascribed to it in NRS 555.238 235.]~~

*3. A nursery stock dealer license renewed after the July 1 deadline must be accompanied by a \$75.00 late fee.*

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**PROPOSED REGULATION OF THE  
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**SMALL BUSINESS IMPACT DISCLOSURE PROCESS  
PURSUANT TO 233B “Nevada Administrative Procedures Act”**

The purpose of this Small Business Impact Form is to provide a frame work pursuant to NRS 233B.0608 to determine where a small business impact statement is required for submittal of a proposed regulation before the Nevada Department of Agriculture. If questions one (1) and two (2) are answered No, then a small business impact statement is not required. If question one (1) or two (2) is answered with a YES, then a small business impact statement is required prior to conducting a public workshops by the Department. (This form must be submitted with the proposed regulation when submitted for drafting by LCB and adoption by the Nevada State Board of Agriculture.)

Proposed regulation: Amendments to NAC 555.100 to 555.235 pertaining to nursery stock and nursery stock sales.

**Part 1**

1. Does this proposed regulation impose a direct and significant economic burden upon a small business ? No
2. Does this proposed regulation restrict the formation, operation or expansion of a small business ? No

**Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).**

3. If **YES** to either of questions 1& 2, the following action must be taken:
  - a. Was a small business impact statement prepared and was it available at the public workshop ?
  - b. Attach the small business impact statement (part 2) as part of this form upon submission for drafting by LCB and adoption by the Nevada Board of Agriculture.

**Part 2**

1. Describe the manner in which comments were solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

2. The estimated economic effect of the proposed regulation on small business:
  - a. Both adverse and beneficial effects
  - b. Both direct and indirect effects
  
3. The description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses.
  - a. Simplification of the proposed regulation.
  - b. Establishment of different standards of compliance for a small business.
  - c. Modification of fees or other monetary interests that a small business is authorized to pay at a lower fee.
  
4. The estimated cost to the agency for enforcement of the proposed regulation.
  
5. If this regulation provides for 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.
  
6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards relating to the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.