

**LCB File No. R251-03**

**PROPOSED REGULATION OF THE STATE  
DEPARTMENT OF AGRICULTURE**

**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  
Eyer H Boies Building  
Elko, NV 809801

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 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

**LCB File No. R251-03**

**PROPOSED REGULATION OF THE STATE  
DEPARTMENT OF AGRICULTURE**

Proposed amendments to NAC 555.100 to 235 inclusive  
Authority: NRS 555.235-239 inclusive

REGULATION OF ~~[NURSERIES]~~ **NURSERY STOCK** AND NURSERY STOCK **SALES**

NAC 555.100 Definitions. (NRS 555.238, 555.243, 555.2485) As used in NAC 555.100 to 555.235, inclusive, unless the context otherwise requires, the words and terms defined in NAC 555.101 to 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.]~~ *which is removed from a growing site with the root system substantially free from soil.*

NAC 555.102 “Commercially clean” defined. (NRS 555.243) “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.]~~ *has been planted in a container with the root system in soil or other growing medium capable of sustaining normal plant growth.*

NAC 555.1035 “Dangerously injurious pest” defined. (NRS 555.243) “Dangerously injurious pest” means a pest which:

1. Constitutes a significant threat to the agricultural, forest or horticultural interests of this state, to the public or to the general environmental quality of this state; and
2. Is not known to exist in this state or has a limited existence in this state.

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.]~~ *the purpose of its cultivation is exclusively for indoor use.*

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 555.1074 “Notice of violation” defined. (NRS 555.2485) “Notice of violation” means a nursery inspection report or an interview notice issued by the department 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 department; and
  - (b) The person who is in violation of the statute or regulation.

NAC 555.1075 “Notice of warning” defined. (NRS 555.2485) “Notice of warning” means a written notice issued by the department 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 555.1076 “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 555.109 “Under effective control” defined. (NRS 555.243) “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 of the type of pest [being controlled existing] on no more than a few plants in the block or lot of nursery stock.~~

*“Balled” defined. Balled means nursery stock which has been removed from the growing site with a ball of soil, containing a portion of the undisturbed root system left intact and encased in burlap, wire basket or other similar material to hold the root ball in place. This shall also include nursery stock which has been removed from the growing site by a mechanical digger or other means and contains the root system left intact but not necessarily encased in burlap, wire cage or other similar material.*

*“Etiolated growth” defined. Etiolated growth means plant growth which is bleached, whitened, weak or elongated usually as a result of the exclusion of sufficient light.*

*“Packaged” defined. Packaged means any plant or plant part packed in moisture retaining material which is wrapped and sealed in plastic or other material to hold the contents in place.*

NAC 555.1095 Issuance of notice of warning. (NRS 555.2485)

1. A notice of warning may be issued by the department 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 555.110—Exemption of out of state nursery. (NRS 555.243)—An out of state nursery making wholesale deliveries of nursery stock to a licensed retail nursery stock dealer 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:~~

~~State Department of Agriculture~~

~~Division of Plant Industry~~

~~350 Capitol Hill Avenue~~

~~Reno, NV 89502—2923~~

~~State Department of Agriculture~~

~~Division of Plant Industry~~

~~Southern District Office~~

~~Mailroom Complex~~

~~Las Vegas, NV 89158~~

~~State Department of Agriculture~~

~~Division of Plant Industry~~

~~Eastern District Office~~

~~Eyer H. Boies Building~~

~~1351 Elm Street~~

~~Elko, NV 89801~~

~~State Department of Agriculture~~

~~Division of Plant Industry~~

~~1200 East Winnemucca Boulevard~~

~~Winnemucca, NV 89445]~~

*Application for license: form; required information.(NRS 555.237)*

*1. Each application for a nursery stock dealer license must be made on a form provided by the director.*

*2. Each application for a nursery stock dealer license must include, without limitation:*

*(a)The name of the person applying for the license, and the name of the business under which the applicant intends to engage in the business of nursery stock sale;*

*(b) The physical address of the business, telephone number, facsimile number, and electronic mail address, of the location where nursery stock is offered for sale;*

*(c) The mailing address, telephone number, facsimile number, and electronic mail address of the location where nursery stock is offered for sale, if different from the business information provided under 2(b).*

*(d) The address of each location where nursery stock is offered for sale or held if other than the business or mailing address.*

*(e) the physical address of the location where business records are maintained if different from the business address or mailing address.*

*(f) The type of nursery stock to be sold*

*(g) The type of business*

*Posting of license; administrative fine. (NRS 555.237)*

*1. In addition to the posting requirements of NRS 555.237, each business licensed as a nursery stock dealer shall have the license issued to him by the director, or a facsimile thereof, in each service vehicle while engaged in the delivery or installation of nursery stock; or*

*2. A business may prominently display on all service vehicles of that business the name of the business, and the number of the nursery stock dealer license issued by the director preceded by the letters "NSDL". The name of the business and the number of the license displayed on the vehicle must be:*

*(a) The same as the name and number on the license issued by the director; and*

*(b) Displayed in a prominent place on both sides of the vehicle in letters at least 2" in height and in a color which contrasts with the color of the vehicle.*

*3. A person who fails to post license in violation of this sections shall, after notice and hearing, for each violation pay an administrative fine in accordance with the following:*

*(a) For first violation, \$75.00*

*(b) For second violation, \$200.00*

*(c) For third and any subsequent violations, \$300.00*

NAC 555.120 Classification of nursery stock. (NRS 555.243) For the purposes of reporting classes of nursery stock, the following classifications must be used:



1. ~~{Deciduous trees/shade trees}~~ *Deciduous and evergreen trees*;
2. *Coniferous* evergreens;
3. Vines;
4. Small fruits;
5. *Vegetative propagative materials including but not limited to* ~~{B}~~bulbs, corms, tubers, *and rhizomes*;
6. Deciduous *and evergreen* shrubs;
7. Roses;
8. Fruit trees;
9. *Annual* ~~{B}~~ bedding stock; ~~{and}~~
10. Sod.
11. *Perennials*
12. *Vegetable plants*
13. *Seed*

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 *botanical or common* name *or both*. ~~{and with the}~~ *If stock is sold by* grade or size ~~{when so required by regulation}~~ *the grade or size must conform to the American Standards for Nursery Stock*. 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.}~~2. 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}~~. *\$75.00*
- (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 N.W., 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.]~~

*(a) Nursery stock shall be maintained in a manner that will protect roots from excessive heat, drying, or other adverse conditions.*

*(b) The root ball of balled nursery stock shall be kept moist at all times and in a moisture retaining material at a depth sufficient to cover 75% of the ball.*

*(c) Bare root nursery stock shall be kept under conditions of temperature, light, and moisture to retard etiolated or other abnormal growth and maintain viability. Moisture shall be supplied to the root system by covering the roots with moisture retaining material.*

*(d) Containerized stock and balled potted stock enclosed in a container shall be kept and displayed under growing conditions of temperature, light, and moisture sufficient to maintain viability and vigor. Potting medium shall cover all roots of the plant.*

*(e) Packaged nursery stock shall be stored and displayed under conditions of temperature and light that will retard etiolated growth or other abnormal growth, ensure adequate moisture, and prevent damage to the root system from excessive heat or cold.*

*(f) Woody stemmed deciduous stock shall have a moist, green cambium in the stems and branches and shall have viable buds or normal growth. Etiolated growth from individual buds shall not be more than 4" long.*

*(g) Balled nursery stock shall have a moist, green cambium in the stems and branches, shall have viable buds or normal growth and shall contain healthy, viable roots. Root balls shall be firm and secure and meet or exceed the size specified by the American Standards for Nursery Stock.*

*(h) Nursery stock containers or root balls shall be free from noxious weeds and commercially clean of common weeds.*

*(i) Nursery stock damaged by environmental or mechanical conditions shall not be offered for sale or distribution if normal growth and development would be inhibited. Examples include but are not limited to transportation and handling damage, frost cracking, pruning damage, sunscald, abnormally pot bound or girdling roots, and mechanical damage. In no case shall nursery stock with substantial damage to the branches that cannot be corrected with selective pruning or damage to the cambium layer equal to or greater than 50% of the circumference trunk be sold.*

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.]~~ **\$300.00**

(c) For the third and any subsequent violation, ~~[\$300].~~ **\$500.00**

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 dangerously injurious pests 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 dangerously injurious pest must be eradicated.

(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.]~~ *\$100.00*

(b) For the second violation, ~~[\$100.]~~ *\$200.00*

(c) For the third and any subsequent violation, ~~[\$200.]~~ *\$ 500.00*

NAC 555.170 Waxed nursery stock ~~[prohibited.]~~; *administrative fine* (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.]~~ *\$100.00*

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.]~~ **\$100.00**

NAC 555.180 Pest classification. (NRS 555.243) The director may determine the classification as between dangerously injurious pest and common pest for all pest infestations found on nursery stock and publish a list of classifications for those pests.

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.]~~ **\$200.00**

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 department hereby adopts by reference the ***most current edition*** ~~[1996 edition]~~ of ***American Standards for Nursery Stock***, together with any amendments or changes thereto which are found by the director to be suitable for this state pursuant to subsection 2. This publication is available from The American Nursery and Landscape Association, 1250 I Street N.W., Suite 500, Washington, D.C. 20005~~[,].~~ ~~[for the price of \$20.75.]~~

2. ~~[The director 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:]~~

***Each amendment to the American Standards for Nursery Stock specified in subsection 1 shall be deemed approved by the director unless the amendment is disapproved within 60 days after the amendment becomes effective. The director will review each amendment to the American Standards for Nursery Stock specified in subsection 1 that is adopted to determine its suitability for this state. If the director determines that such an amendment:***

(a) Is suitable *for this state*, ~~[the director 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 department.]~~ *It the director will:*

*(1) File one copy of the amendment with the Secretary of State and the State Library and Archives Administrator; and*

*(2) Make at least one copy of the amendment available for public inspection with the regulations of the Department; or*

(b) ~~[Is unsuitable, the director shall file with the secretary of state and with the state library and archives administrator a written 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 department.~~

~~[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.]~~ *Is unsuitable for this state, the director will:*

*(1) File with the Secretary of State and the State Library and Archives Administrator, together with a copy of the amendment, a written notice indicating that the amendment is disapproved; and*

*(2) Make at lease one copy of the written notice and amendment available for public inspection with the regulations of the Department.*

NAC 555.210 Labels: Nursery stock graded by size; *administrative fine*. (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.]~~ **\$100.00**
- (b) For the second violation, ~~[\$100.]~~ **\$200.00**
- (c) For the third and any subsequent violation, ~~[\$200.]~~ **\$300.00**

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~~ **sells** nursery stock without first obtaining a license from the director, 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.

*Administrative fine: Fraudulent or deceptive application for license (NRS 555.236). A person who knowingly submits incomplete, fraudulent or deceptive information to the director for the purpose of applying for or renewing a nursery stock dealer license 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, \$150.00*
- 2. For the second violation, \$250.00*
- 3. For the third and subsequent violation, \$500.00*

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 **or inspection of a nursery stock dealer place of business** 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.]~~ *in accordance with the following:*

1. *For the first violation, \$250.*
2. *For the second violation, \$350.*
3. *For the third and any subsequent violation, \$500.00*

*Administrative fine: Falsifying certificates of inspection or quarantine. (NRS 555.2485) A person who falsifies inspection certificates, certificates of quarantine compliance or phytosanitary certificates in violation of NRS 555.246 shall, after notice and hearing, for each violation pay an administrative fine in the following amount:*

1. *For the first violation, \$200.00*
2. *For the second violation, \$300.00*
3. *For the third violation, \$500.00*

NAC 555.231 Administrative fine: Failure to label *containers of nursery stock; bulk shipments* nursery stock. (NRS 555.2485) A person who fails to label *shipments of* 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.]~~ *200.00*
2. For the second violation, ~~[\$200.]~~ *300.00*
3. For the third and any subsequent violation, ~~[\$300.]~~ *500.00*



**LCB File No. R251-03**

**PROPOSED REGULATION OF THE STATE  
DEPARTMENT OF AGRICULTURE**

**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.