

**ADOPTED REGULATION OF THE
STATE QUARANTINE OFFICER**

LCB File No. R089-07

Effective June 17, 2008

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

AUTHORITY: §§1 and 2, NRS 587.360.

A REGULATION relating to agricultural products; revising fees for the inspection, grading or certification of certain agricultural products; establishing a fee for the issuance of certain certificates; and providing other matters properly relating thereto.

Section 1. NAC 587.340 is hereby amended to read as follows:

587.340 1. The fees for the inspection and certification of potatoes at their point of shipping will be determined by agreement between the State Quarantine Officer and the processor of the potatoes. If those fees will exceed \$2,000 in a 30-day period, the processor of the potatoes must provide to the Department a surety bond or another form of security that is satisfactory to the Director to guarantee the payment of the fees for the 30-day period immediately succeeding the date the security is provided. The fees will not be less than:

(a) The actual cost of providing the inspection and certification services; and

(b) The fee charged in accordance with the contract between the Department and the Federal Government for certifying that the potatoes comply with the standards and conditions established by the Federal Government.

2. The fees for inspection, grading or certification of other agricultural products:

(a) Are:

(1) ~~{Thirty}~~ *Forty* dollars for each hour the inspector spends conducting the inspection, grading or certification, including the time spent traveling to and from the location where the inspection and certification are conducted;

(2) ~~{Forty cents a mile}~~ *The mileage allowance established by the State Board of Examiners for state officers and employees pursuant to subsection 3 of NRS 281.160* for the inspector's travel; and

(3) Any fee charged in accordance with the contract between the Department and the Federal Government; and

(b) Unless they are for a one-time or intermittent inspection, grading or certification, must be secured by providing to the Department a surety bond or another form of security that is satisfactory to the Director to guarantee the payment of the fees for the 90-day period immediately succeeding the date the security is provided.

3. In addition to any fees required pursuant to this section, the State Quarantine Officer will charge a fee of \$50 for the inspection of forage for the presence of noxious weeds.

4. Special arrangements, including arrangements for fees, must be made with the State Quarantine Officer for the inspection of agricultural products for processing. The fees for such an inspection must be secured by providing to the Department a surety bond or another form of security that is satisfactory to the Director to guarantee the payment of the fees for the 90-day period immediately succeeding the date the security is provided.

5. If the State Quarantine Officer or his designee ~~{, pursuant to a contract between the Department and the Federal Government,}~~ inspects agricultural products in the field for the purpose of issuing a phytosanitary certificate required by the government *of a state or* of a

foreign country before those agricultural products may be exported to that *state or* country, the State Quarantine Officer will impose a fee of \$4 per acre for the inspection.

6. If the State Quarantine Officer or his designee ~~is pursuant to a contract between the Department and the Federal Government,~~ issues *a phytosanitary certificate*, an export certificate for processed plant products *or a free-sale certificate* as required by the government *of a state or* of a foreign country before agricultural products ~~that have been processed or manufactured~~ may be exported to that *state or* country, the State Quarantine Officer:

(a) Will impose a fee of \$25 if the shipment of agricultural products is made for commercial purposes; ~~and~~

(b) Will not impose a fee if the shipment of agricultural products is made for noncommercial purposes ~~and~~; *and*

(c) Will impose any fee required to be collected and passed through to the United States Department of Agriculture.

7. As used in this section:

(a) “Export certificate for processed plant products” has the meaning ascribed to it in 7 C.F.R. § 353.1.

(b) *“Free-sale certificate” has the meaning ascribed to it in paragraph (c) of subsection 4 of NAC 587.345.*

(c) “Phytosanitary certificate” has the meaning ascribed to it in ~~7 C.F.R. § 353.1~~ *NRS 555.23575.*

Sec. 2. NAC 587.345 is hereby amended to read as follows:

587.345 1. The State Quarantine Officer or his designee may issue:

(a) A federal phytosanitary certificate.

(b) A state phytosanitary certificate.

(c) A free-sale certificate.

(d) An export certificate for processed plant products.

2. If the State Quarantine Officer or his designee determines that an applicant for a federal phytosanitary certificate, state phytosanitary certificate, ***export certificate for processed plant products*** or free-sale certificate issued pursuant to subsection 1 provided inaccurate information in conjunction with the application for that certificate, the State Quarantine Officer or his designee may revoke that certificate.

3. In addition to any other applicable fees, the State Quarantine Officer or his designee will impose a fee of \$25 for the issuance of a federal phytosanitary certificate, state phytosanitary certificate, ***export certificate for processed plant products*** or free-sale certificate that replaces a certificate revoked pursuant to subsection 2.

4. As used in this section:

“Export certificate for processed plant products” has the meaning ascribed to it in 7 C.F.R. § 353.1.

(a) ***“Export certificate for processed plant products” has the meaning ascribed to it in 7 C.F.R. § 353.1.***

(b) “Federal phytosanitary certificate” means a phytosanitary certificate issued pursuant to federal law.

~~(b)~~ (c) “Free-sale certificate” means a certificate that certifies that the plants or plant products being exported are the same type of plants or plant products freely marketed and for sale in the State of Nevada.

~~(e)~~ (d) “State phytosanitary certificate” means a phytosanitary certificate that documents the origin and, if required, the inspection of plants and unprocessed or unmanufactured plant products that do not qualify for a federal phytosanitary certificate.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R 089-07**

The State Quarantine Office adopted regulations assigned LCB File No. R089-07 which pertain to chapter 587 of the Nevada Administrative Code.

Notice dates: 7/11/2007 for workshop to LCB

Workshop date: 8/13/2007

Date of adoption by agency: May 21, 2007

Hearing dates: 9/17 & 12/17, 2007

INFORMATIONAL STATEMENT

- 1. 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.**

Notices were put out in County Libraries and Nevada Department of Agriculture offices.

Interested persons may obtain a summary by contacting the Nevada Department of Agriculture 350 Capitol Hill Avenue Reno, Nevada 89502, 775-688-1180.

- 2. The number of persons who: (a) attended each workshop/hearing; (b) testified at each workshop/hearing; and (c) submitted to the agency written statement.**

Workshop was held August 13th, 2007 in Reno & Las Vegas

Number attended: 4

Number testified: 1 Reno

Number of written statements submitted: 0

Summary of comments:

A variety of personnel conduct inspections or issue state and federal certificates which makes costs variable.

Farm Bureau policy is to oppose fees or fee increases. Fees should reflect the costs of the service. The Department should study the costs involved to determine fees for certificates and hourly rate.

Adjusting the mileage to the state rate which is based on fuel costs etc. seemed appropriate.

Hearings held September 17 & December 17, 2007 in Reno & Las Vegas

Number attended: 0

Number testified: 0

Number of written statements submitted: 0

Summary of comments: There were no comments.

- 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.**

Notices were sent to businesses that pay for certificates or agricultural inspections.

Interested persons may obtain a summary by contacting the Nevada Department of Agriculture 350 Capitol Hill Avenue Reno, Nevada 89502, 775-688-1180.

- 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 proposed regulation was adopted with changes..

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
(a) Both adverse and beneficial effects;
(b) Both immediate and long-term effects;

Businesses.

The adverse effects on businesses would be the increase in the cost of a certificate or inspection. The beneficial effect is that the services can continue to be performed. The immediate and long term effects on businesses are the same.

Public

There are no adverse or beneficial effects on the public. The immediate and long term effects on the public are the same.

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

None

- 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.**

The issuance of Federal Phytosanitary Certificates (FPC) by the Nevada Department of Agriculture duplicates the issuance of these certificates by the U.S. Department of Agriculture Animal Plant Health Inspection Service (APHIS). The Department is authorized by APHIS to issue FPC's. The duplication is necessary to better enable companies to export their products to other countries. The fees charged by APHIS are significantly higher than those charged by the state. Lower fees facilitate export of products.

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

Not applicable.

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.

The \$25.00 fee for free sale certificates and export certificates for processed plant products will bring in an estimated \$2,875. In 2007 104 free sale certificates and 11 processed product certificates were issued. The \$25 phytosanitary certificate fee would bring in \$6,525 based on 272 state and federal phytosanitary certificates issued in 2007. These fees would be used to cover the costs of issuing the certificates. The mileage rate increase from \$0.40/mile to the state mileage rate (currently \$0.5050) would bring in about \$2,000 per year which would be used to pay vehicle operating costs. The \$10 increase in per hour inspection fee would bring in about \$8,100 which would be used to recover salary costs. The proposed U.S.D.A. fee collected from exporters and passed through to U.S.D.A. for non electronic Federal Phytosanitary Certificates (FPC) is expected to be \$16.00 for each certificate. If all Nevada issued FPC are non electronic about \$3,800 would be passed through to U.S.D.A. Note: if the federal phytosanitary certificate is issued electronically (federal system) the fee is automatically assessed by the system and passed to USDA..