

LCB File No. R228-97

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

The Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV, (702) 688-1180 is proposing the amendment of regulations pertaining to chapters 554 and 555 of Nevada Administrative Code. A workshop has been set for January 16, 1998, 9:00 a.m. at the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

NAC 554. Fines for Nursery Violations

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV, (702) 688-1180. A reasonable fee for copying may be charged. This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Nevada Division of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

Nevada Division of Agriculture
2150 Frazer Street
Sparks, NV 89431

Nevada Division of Agriculture
1550 S. Wells Ave.
Reno, NV 89502

Nevada Division of Agriculture
1200 E. Winnemucca Blvd.
Winnemucca, NV 89445

Nevada Division of Agriculture
Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801

Nevada Division of Agriculture
2300 McLeod
Las Vegas, NV 89104

Date: December 23, 1997

LCB File No. R228-97

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the adoption of Regulations of the Nevada Division of Agriculture

The Nevada Division of Agriculture will hold a public hearing at 9:00 a.m. on January 23, 1998 at 350 Capitol Hill Ave., Reno, NV. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to chapter 555 of the Nevada Administrative Code pertaining to Fines for Nursery Violations. The following information is provided pursuant to the requirements of NRS 233B.060:

Need for and purpose of the proposed regulation or amendment:

NRS 555 was amended in the last legislative session providing for administrative fines for violations of provisions governing nurseries. The amendment mandated that the administrator adopt regulations specifying a schedule fines which may be imposed upon notice and hearing. The administrative fines provide a deterrent to violations that would have an economic effect on the public and a potential economic effect in Nevada.

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

- a. Adverse effects:
There are adverse effects on business which do not comply with the nursery provisions. Violators of these quarantine would be subject to the fines after notice and hearing.
- b. Beneficial effects:
Those businesses that comply with the nursery provisions will benefit from the reduced risk of economic loss provided by the deterrent to violations.
- c. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term.

Economic effect of these proposed amendments on the public:

- a. Adverse effects:
There are no adverse effects on the public.
- b. Beneficial effects:
The public will benefit from the reduced risk of economic loss provided by the deterrent to violations and the reduction of the risk of severe economic loss to the State of Nevada.
- c. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term.

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

There are no additional costs to the agency for enforcement of these amendments.

Description of any regulations of other state, local or federal governmental agencies which the proposed amendments overlap or duplicate:

There are no other state, local or federal governmental regulations that the proposed amendments overlap or duplicate.

Fees: These amendments do not create any new fees or increase any existing fees.

Persons wishing to comment upon the proposed action of the Nevada Division of Agriculture may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV. Written submissions must be received by the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV on or before January 22, 1998. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Nevada Division of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502; the Nevada Division of Agriculture, 1550 S. Wells Ave., Reno, NV 89502; the Nevada Division of Agriculture, Eyer H. Boies Building, 1351 Elm St., Elko, NV 895801; the Nevada Division of Agriculture, 2150 Frazer Street, Sparks, NV 89431; the Nevada Division of Agriculture, 1200 E. Winnemucca Blvd., Winnemucca, NV 89445; the Nevada Division of Agriculture, 2300 McLeod, Las Vegas, NV 89104; and in all counties in which an office of the agency is not maintained, at the mail public library, for inspection and copying by members of the public during business hours. This notice and text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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

The notice of hearing has been posted at the following locations:

Nevada Division of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

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2150 Frazer Street
Sparks, NV 89431

Nevada Division of Agriculture
1550 S. Wells Ave.
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Nevada Division of Agriculture
Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801

Nevada Division 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, please call Robert Gronowski at the Nevada Division of Agriculture, 688-180, as soon as possible.

Date: December 23, 1997

LCB File No. R228-97

Nevada Division of Agriculture
350 Capitol Hill Ave.
Reno, NV 89502

**PROPOSED AMENDMENT TO NAC 555
NURSERY VIOLATIONS AND FINES**

Authority: NRS 555

Chapter NAC 555 is hereby amended by adding thereto the provisions set forth as Section 1 through Section 4:

Section 1. "Notice of Violation" means a nursery inspection report completed by a division of agriculture representative stating the statute or rule violated, the disposition of the nursery stock found in violation or corrective action to be taken by the representative of the business, and signed by the division of agriculture representative and the representative of the business where the violation occurred.

Sec. 2. "Notice of Warning" means a written statement issued by the division of agriculture stating the statute or rule violated and directing any corrective action that must be completed by the violator.

Sec. 3. Notice of Warning

1. A notice of warning may be issued to the violator for the first violation except for the following violations:

a. Failure to comply with the disposition statement on the notice of violations within the time frame listed.

b. An intentional violation that would defraud the consumer or causes the nursery stock to be unsuitable for the intended purpose.

2. If a notice of warning is issued no additional fine will be assessed.

Sec. 4. In addition to any other penalty, the administrator may assess a fine against a person according to the following schedule:

1. NRS 555.236 Failure to license

a. 1st violation - \$250.00

b. 2nd violation - \$500.00

c. 3rd and subsequent violations - \$1,000.00

2. NRS 555.244 Preventing or interfering with the inspection of a nursery

- a. 1st violation - \$250.00
 - b. 2nd violation - \$500.00
 - c. 3rd and subsequent violations - \$1,000.00
3. NRS 555.246 Shipment of nursery stock without the required inspection certificate
 - a. 1st violation - \$250.00
 - b. 2nd violation - \$250.00
 - c. 3rd and subsequent violations - \$250.00
4. NRS 555.247 Failure to label nursery stock
 - a. 1st violation - \$250.00
 - b. 2nd violation - \$250.00
 - c. 3rd and subsequent violations - \$250.00
5. NRS 555.248 Failure to treat, keep under the business representative's control, destroy or ship out of the state any infected or infested nursery stock
 - a. 1st violation - \$100.00
 - b. 2nd violation - \$200.00
 - c. 3rd and subsequent violations - \$300.00
6. NAC 555.130 Failure to label or correctly label nursery stock by grade or size
 - a. 1st violation - \$50.00
 - b. 2nd violation - \$100.00
 - c. 3rd and subsequent violations - \$200.00
7. NAC 555.140 Failure to use correct botanical or common name on a nursery stock label
 - a. 1st violation - \$50.00
 - b. 2nd violation - \$50.00
 - c. 3rd and subsequent violations - \$50.00
8. NAC 555.150 Displaying or storing nursery stock which will not maintain its vigor, in a dying condition, broken or potbound. Displaying or storing fruit trees with twisted, crossed, rusted, broken or with defective roots or grafts or other defects which will interfere with normal and proper development
 - a. 1st violation - \$100.00
 - b. 2nd violation - \$200.00
 - c. 3rd and subsequent violations - \$300.00
9. NAC 555.160 Nursery stock found infected or infested with serious or economic pests or found not commercially clean of common pests
 - a. 1st violation - \$50.00
 - b. 2nd violation - \$100.00
 - c. 3rd and subsequent violations - \$200.00

10. NAC 555.170 Nursery stock found containing paraffin, wax or other coating which interferes with, hampers, or prohibits inspection

- a. 1st violation - \$50.00
- b. 2nd violation - \$50.00
- c. 3rd and subsequent violations - \$50.00

11. NAC 555.175 Failure to list age or not properly listing the age of nursery stock if the age is stated on advertisement, label or sign

- a. 1st violation - \$50.00
- b. 2nd violation - \$50.00
- c. 3rd and subsequent violations - \$50.00

12. NAC 555.190 Failure to isolate or isolate infested or infected nursery stock in the manner directed or failure to control or eradicate the infection or infestation within the time specified in the notice of violation

- a. 1st violation - \$50.00
- b. 2nd violation - \$50.00
- c. 3rd and subsequent violations - \$50.00

13. NAC 555.210 Failure to label or failure to properly label nursery stock by grade or size when the nursery stock is sold by grade or size

- a. 1st violation - \$50.00
- b. 2nd violation - \$100.00
- c. 3rd and subsequent violations - \$200.00

NOTE: For any clarification of these amendments, please contact Robert Gronowski at (702) 688-1182, ext. 239.