

**ADOPTED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

LCB File No. R092-11

Effective December 30, 2011

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

AUTHORITY: §1, NRS 555.238 and 555.239.

A REGULATION relating to agriculture; increasing fees for licensing of dealers of nursery stock; setting forth a lower fee for the licensing of certain dealers of nursery stock who make only occasional sales; deleting a provision requiring under certain circumstances the Director of the State Department of Agriculture to charge one-half of the annual fee otherwise required for licensing dealers of nursery stock; and providing other matters properly relating thereto.

Section 1. NAC 555.1098 is hereby amended to read as follows:

555.1098 1. Except as otherwise provided in ~~[subsection 2 and]~~ NRS 555.236, the Director shall, for the issuance or renewal of a license, charge and collect an annual fee pursuant to the following schedule:

(a) Except as otherwise provided in ~~[paragraph (e)]~~ *paragraphs (c) and (d)*, for each business location of a dealer of nursery stock, ~~[\$130.]~~ *\$175.*

(b) For each acre of nursery stock in production, or portion thereof after the first acre, ~~[\$20]~~ *\$25* up to a maximum additional fee of ~~[\$200.]~~ *\$250.*

(c) For a peddler, ~~[\$200.]~~ *\$250.*

(d) For each business location of a dealer of nursery stock who makes only occasional sales and who has not obtained a waiver from the requirements for licensing pursuant to NRS 555.236, \$75.

2. If a ~~[person applies after January 1 of a fiscal year for a new license to be issued during that fiscal year, the Director shall charge and collect one half the annual fee otherwise required pursuant to subsection 1.~~

~~—3.—~~ If a] licensee applies for the renewal of his or her license after July 1, the Director shall, pursuant to NRS 555.239, charge and collect, in addition to the annual fee for renewal of the license, a penalty fee of \$75.

~~[4.]~~ 3. As used in this section ~~[, “peddler”]~~ :

(a) *“Occasional sales” has the meaning ascribed to it in NRS 555.236.*

(b) *“Peddler”* has the meaning ascribed to it in NRS 555.2357.

NOTICE OF ADOPTION OF REGULATION
LCB File Number: R092-11

The Nevada Department of Agriculture adopted regulations assigned LCB File No. R092-11 which pertain to chapter 555 of the Nevada Administrative Code on December 6, 2011. A copy of the regulations as adopted is attached hereto.

INFORMATIONAL STATEMENT
NAC 555.1098

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary;
 - a) Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of licensing of dealers of nursery stock as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDOA) www.agri.state.nv.us, mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431-5566

Nevada Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431

Nevada Department of Agriculture
2300 McLeod Street
Las Vegas, NV 89104-4314

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801-4672

b)

- c) Interested persons may obtain a copy of the summary by contacting:
Nevada Department of Agriculture
Attn: Dawn Rafferty, Plant Industry Division
405 South 21st Street
Sparks, NV 89431

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation;

Workshop: November 9, 2011
Number in attendance: 8
Hearing: December 5, 2011
Number in attendance: 4
Number testifying: 1
Written statements submitted: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary

- a) Comments were solicited from affected businesses in the same manner as they were solicited from the public.

- b) Ten members of the public commented either publicly or via mail or phone. Four people suggested that the fee structure be modified to include a reduced fee for very small businesses. One commented that he recognized that fees must be increased but felt the fee increase was too high and should be reduced. Two commented they are opposed to fee increases in general but understood why the fee increase was necessary in this case. Two commented that they did not support any fee increase for any reason. One suggested an alternate fee structure based on square footage of the business.

- c) Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture
Attn: Dawn Rafferty, Plant Industry Division
405 South 21st Street
Sparks, NV 89431

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 statement should also explain the reasons for making any changes to the regulation as proposed.

The permanent regulation was adopted on December 5, 2011 with approval from the Board of Agriculture. Changes were made to address industry concerns heard during the workshop about the impact of the fee increase on very small businesses and that costs incurred by the Department to inspect these small businesses are captured by adding a minimal fee.

5. The estimated economic effect of the regulation on businesses which it is to regulate and on the public. Stated separately:

- a) Adverse Effects::

The fees will increase the cost to businesses, but will not cause an active business to go out of business. NRS 555.236 has a hardship provision to prevent this. There is no adverse effect on the public.

- b) Beneficial effects:

Businesses will benefit from the continued service of full time inspection staff. The public will benefit because the frequency in which nursery stock being offered for sale to the public is inspected for plant pests that have detrimental economic or environment effects can continue at its present level.

6. The estimated cost to the agency for enforcement of the proposed regulation.

There is no additional cost to the agency for the enforcement of this regulation.

7. A description of any regulations 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.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.
N/A

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

This is an increase to an existing fee. It is estimated that the agency will collect approximately \$ 180,000.00 annually. The fees support salary and expenses incurred by the nursery program.