

ADOPTED REGULATION OF THE STATE

BOARD OF AGRICULTURE

LCB File No. R240-03

Effective March 18, 2004

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 sales of nursery stock; establishing a schedule of annual fees for a license to conduct business as a dealer 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 ~~3, 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]~~ *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 (c), for each business location of a dealer of nursery stock, \$130.

(b) For each acre of nursery stock in production , or portion thereof after the first acre, ~~[\$10]~~ *\$20* 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.~~

~~—4.] *For a peddler, \$200.*~~

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 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. As used in this section ~~⌈~~:

~~—(a) “Agent” has the meaning ascribed to it in NRS 555.238.~~

~~—(b) “Peddler”], “peddler” has the meaning ascribed to it in NRS [555.238.] 555.2357.~~

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R240-03

The State Department of Agriculture adopted regulations assigned LCB File No. R240-03 which pertain to chapter 555 of the Nevada Administrative Code on February 6, 2004.

Notice date: 12/19/2003

Date of adoption by agency: 2/6/2004

Hearing date: 1/28/2004 & 1/29/2004

Filing date: 3/18/2004

INFORMATIONAL STATEMENT

1. A public workshop was held January 7, 2004, in Reno, Nevada at the Nevada Department of Agriculture Office, 350 Capitol Hill Avenue, and January 8, 2004, in Las Vegas, Nevada at the Nevada Department of Agriculture Office, 2300 McLeod.
2. A public hearing was held on January 28, 2004, in Reno, Nevada at the Nevada Department of Agriculture Office, 350 Capitol Hill Avenue, and January 29, 2004, in Las Vegas, Nevada at the Nevada Department of Agriculture Office, 2300 McLeod.

Notice of workshop and notice of hearing was posted; at all six Department offices, the Nevada State Library, in Carson City Nevada, and all Nevada county libraries. The notice of hearing and workshop was posted on the Department's website. Copies could be requested from the Nevada Department of Agriculture, Division of Plant Industry by writing to 350 Capitol Hill Avenue, Reno, Nevada 89502, calling (775) 688-1182, contacting all other Department offices, the Nevada State Library in Carson City, and all Nevada county libraries. All persons who have requested to be notified of amendments were notified by mail, fax or e-mail.

3. Workshop held January 7, 2004 – Reno

Number attended:	0
Number testified:	0
Number of written statements:	1

Summary of comments: Peggy McKie, Nursery Program Manager, reviewed the draft and no changes were required.

4. Workshop held January 9, 2004 – Las Vegas

Number attended:	2
Number testified:	2
Number of written statements:	0

Summary of comments: Peggy McKie, Nursery Program Manager, reviewed the draft with attendees and added additional changes recommended by members of the public and Nevada Department of Agriculture staff in attendance at the workshop. Comments

received recommended reducing the license fee for new businesses that license after January 1st and clarify the requirement that a business licensed by another state that sells to any person **other than a licensed nursery stock dealer** is required to obtain a Nevada-issued nursery stock dealer license. Questions arose regarding the time frame during which a late fee would be charged for failing to renew by July 1st and language drafted to amend the regulation to that end.

- 5. Hearing held January 28, 2004 – Reno
 - Number attending: 0
 - Number testifying: 0
 - Number of written statements submitted: 0

Summary of changes: None

- 6. Hearing held January 29, 2004 – Las Vegas
 - Number attending: 0
 - Number testifying: 0
 - Number of written statements submitted: 0

Summary of changes: Peggy McKie, Nursery Program Manager, reviewed with department staff the proposed changes plus public comments contributed during the workshop. It was recommended to add the language drafted during the workshop with regard to 555.1098, allowing a “grace period” of two weeks for a business to renew their license past the July 1st deadline with the payment of a penalty. Failure to renew within that time frame will cause the business to be considered unlicensed and subject to further enforcement action in accordance with 555.215.

- 7. Comments were solicited from businesses and the public, by posting in public locations and through direct mail and e-mail notices as outlined in #2 above. A copy of comments and oral and written testimony may be obtained by calling the Nevada Department of Agriculture office, (775) 68801182.
- 8. The Nevada Department of Agriculture adopted the amendments with the changes recommended from the workshop as follows:

Section One: Changes were made to clarify the license fee schedule and the requirement that a business licensed by another state and that sells to persons other than a licensed nursery stock dealer is required to obtain a license. A provision was added allowing the director to establish a reduced license fee for a new business licensing after January 1st of the fiscal year in which the license expires. A two week “grace period” was added after the July 1st renewal deadline during which time a license can be renewed with the payment of a late fee with no other penalty. If the business fails to renew after July 15th the business will be considered unlicensed and subject to a fine plus the cost of the license and a late fee.

- 9. The economic effects of the adopted amendments on the businesses that it is to regulate include:

- a. Adverse effects:
None.
 - b. Beneficial effects:
The prorated fee for new businesses that license after January 1st helps to decrease initial start-up costs for new businesses.
 - c. Immediate and long-term economic effects:
The adverse and long-term effects are the same for immediate and long-term.
10. Economic effects of the proposed amendments on the public include:
- a. Adverse effects:
None
 - b. Beneficial effects:
None.
 - c. Immediate and long-term economic effects:
The adverse and beneficial effects are the same for the immediate and long-term.
11. Economic cost to the agency for the enforcement of the regulation:
There will not be any additional cost to the agency to enforce the amendments adopted.
12. There are no other state or federal agency regulations that the adopted amendments overlap or duplicate.
13. The amendments adopted do not include any provisions more stringent than any federal regulation with the same activity.
14. This regulation gives the director the authority to implement a reduced license fee for new businesses that license after January 1st of the fiscal year in which their license will expire.