

**ADOPTED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R168-08

Effective February 11, 2009

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

AUTHORITY: §§1 and 2, NRS 555.243; §3, NRS 555.243, 555.247 and 555.2485; §4, NRS 555.243 and 555.2485.

A REGULATION relating to nursery stock; revising the requirements for the labeling of nursery stock; and providing other matters properly relating thereto.

Section 1. Chapter 555 of NAC is hereby amended by adding thereto a new section to read as follows:

“Nursery stock” has the meaning ascribed to it in NRS 555.23562.

Sec. 2. NAC 555.100 is hereby amended to read as follows:

555.100 As used in NAC 555.100 to 555.235, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 555.1005 to 555.109, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 555.130 is hereby amended to read as follows:

555.130 1. ~~[Nursery]~~ *In addition to the requirements set forth in NAC 555.210, all* *nursery* stock sold or offered for sale must be labeled plainly and legibly with the correct botanical or commonly accepted name, or both. ~~[If nursery stock is sold by grade or size, the grade or size must appear on the label and be determined as set forth in the American Standard for Nursery Stock, as adopted by reference pursuant to NAC 555.200.]~~ 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. *In addition to the requirements set forth in subsection 1, balled nursery stock which is sold or offered for sale in containers must be labeled plainly and legibly as “balled nursery stock.” Such a label may include, without limitation, the following:*

- (a) “Balled and burlapped”;*
- (b) “Balled and potted”;*
- (c) “Field potted”; or*
- (d) “Potted balled and burlapped.”*

3. 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, \$75.
- (b) For the second violation, \$100.
- (c) For the third and any subsequent violation, \$200.

Sec. 4. NAC 555.210 is hereby amended to read as follows:

555.210 1. ~~[AHH]~~ *In addition to the requirements set forth in NAC 555.130, 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 *set forth in the American Standard for Nursery Stock, as adopted by reference pursuant to NAC 555.200*, 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, \$100.
- (b) For the second violation, \$200.
- (c) For the third and any subsequent violation, \$300.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R168-08

The State Department of Agriculture adopted regulations assigned LCB File No. R168-08 which pertain to chapter 555 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

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- 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.**

Copies of the proposed regulations, notices of workshop and hearings were posted at Department of Agriculture offices in Reno, Sparks, Winnemucca, Elko and Las Vegas. Notices were also directly emailed to industry members who have specifically requested such notice.

There was no response from the public to this notice.

A copy of this summary of the public response to the proposed regulation is available by contacting the nursery program manager Peggy McKie at 775.688.1182 x 243 or by email at pgmckie@agri.state.nv.us or Tisa Halt at 775.688.1182 x 240 or by email at thalt@agri.state.nv.us.

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

a) Attended the hearing: July 11, 2008: 1

b) Testified at the hearing: July 11, 2008: 1

c) Submitted to the agency written statement: No comments were submitted for the hearing.

- 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.**

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

A workshop was held on July 10, 2008 at the Reno office of the Nevada Department of Agriculture and simultaneously broadcast to the Las Vegas office of the Department. Brent Wilson from Walker Landscape attended the workshop from Las Vegas. He stated that he did not have any comments or concerns but attended the workshop out of general interest. Written comments for the workshop were submitted by Nancy Marino, an employee of Greenhouse Garden Center in Carson City Nevada. She questioned if the intent of the proposed change was to require individual plants to be labeled. As a result of this comment and further discussion the proposed regulations were modified to further clarify the requirement. One member of the affected industry attended the hearing to review the

changes made as a result of comments received during the workshop and did not have any further comments. There were no additional written comments submitted.

The summary may be obtained as instructed in response to Question #1.

- 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.**

Changes were made to the proposed regulation.

- 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;**

Adverse effects: None

Beneficial effects: None

- (b) Both immediate and long-term effects;**

Immediate and long term effects: Same

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

There will be no additional costs to the Department to enforce the amendments.

- 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.**

None.

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

None.

- 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.**

None.