

TITLE 25 - DEPARTMENT OF AGRICULTURE

Chapter 13 - PLANT PROTECTION AND PLANT PEST ACT REGULATIONS

001

American Standard for Nursery Stock Adopted.

The American Standard for Nursery Stock, copyright 2025, published by the American Nursery and Landscape Association, an organization known as American Hort, shall be used by the Department in determining standards and grades of nursery stock when not in conflict with the Act. A copy of the publication is attached and incorporated herein by reference and is hereby adopted and promulgated and may be used. The publication is available upon request to the Department.

002 Fees .

002.01 Fees for certification inspection of Nebraska-grown nursery stock or any necessary reinspections include a mileage charge and an hourly fee. The mileage charge is \$0.50 per mile and \$27.00 per hour which includes the driving time to and from the location in addition to the time spent conducting the inspection.

002.02 Each phytosanitary or export certificate Issued will be assessed a \$40.00 charge in addition to any other applicable fees.

002.03 Any fee charged to the Department by the United States Department of Agriculture for the issuance of a phytosanitary or export certificate or by a laboratory for diagnostic services or any shipping costs related to phytosanitary inspection work will be paid by the applicant.

003 Inspection of Nursery Stock Distributors and Optional Inspections.

Nursery stock or other plants being inspected for an optional nursery stock distributor's license are to remain accessible during regular business hours to the Department for inspection. Weeds or other growth which hinders a proper inspection are grounds to suspend or withhold any license or be cause for a reinspection. Sign markers are to delineate sections which are no larger than five acres. Signs posted by the Department for withdrawal from distribution may only be removed by the Department's written permission.

004 Condition of Nursery Stock.

004.01 Nursery stock is not to contact hard-surfaced areas unless moisture-retaining or heat-reducing material has been provided keeping the plant, including the roots, moist and protected from excessive heat, drying, and other adverse conditions.

004.02 0

Nursery stock is to remain viable with a moist, green cambium in the stems and branches, viable buds or normal green unwilted growth and not have etiolated growth on individual buds of more than four inches. Viability also precludes actively growing weeds, environmentally or mechanically caused damage or damage caused by animals or the use of plastic burlap.

005 Labeling and Records Correct common or botanical names are to be used. Records of shipments and packing slips are to be kept and made available to the Department for three (3) years. Records to be kept include name and address of any person from which nursery stock was received and the receiving date; name and quantity of the contents; place of origin and documentation required to prove compliance with any applicable state or federal quarantine or certification requirement; and a license or its equivalent issued by the recognized authorized agency stating that the nursery from which the nursery stock originates has been inspected and the nursery stock certified.

006 Administrative Fines. A base fine for violating any provision of the Plant Protection and Plant Pest Act or regulations promulgated pursuant to the Act is \$600 and a subsequent violation is \$1,000.

006.01 Gravity adjustment criteria. The base administrative fine may be changed by considering the gravity of harm of the violation and the gravity of misconduct of the person committing the violation. The specific numerical value will be assigned to each category as set forth in the following charts:

006.02 Gravity of harm.

Violation	Circumstances	Value
Department's Ability to Enforce the Act	Violation significantly interfered with Department's ability to enforce the Act.	5
	Violation moderately interfered with Department's ability to enforce the Act.	3
	Violation slightly interfered with Department's ability to enforce the Act.	1
	Violation did not interfere with Department's ability to enforce the Act.	0
Harm to Plant Industry	Actual harm which is both serious and widespread to plant industry.	5
	Actual harm which is either serious or widespread to plant industry.	4
	Potential serious or widespread harm to plant industry.	3
	Minor actual harm to plant industry.	2
	Minor potential harm to plant industry.	1
	No potential harm to plant industry.	0
	Violations so widespread and pervasive the	5

Extent of Distributor's Violations	quality of all plants controlled by the distributor is affected.	
	Numerous and widespread violations greatly affecting the quality of distributor's operation.	4
	Moderately widespread violations moderately affecting the quality of the distributor's operation.	3
	Less widespread violations, slightly affecting the quality of the distributor's operation.	2
	Only a few minor violations, not affecting the quality of the distributor's operation.	1
	No violations affecting the quality of the distributor's operation.	0

006.03 Gravity of misconduct. For the purposes of this subsection prior violation means a violation which was committed within the last three years.

Violation	Circumstances	Value
Compliance History	Two or more prior violations, either similar or unrelated to current violation.	3
	One prior violation similar to current violation.	2
	One prior violation unrelated to current violation.	1
	No prior violations.	0
Culpability	Knowing or willful violation.	5
	Violation resulting from faulty, careless, or negligent action.	3
	Violation was neither knowing or willful and did not result from faulty, careless, nor negligent action.	0
Failure to Take Remedial Efforts	Violator failed to cooperate with Department's investigation; and additionally, failed to notify the Department of the violation and failed to take reasonable and timely steps to correct the violation.	3
	Violator cooperated after the Department discovered the violation but failed to notify the Department of the violation and failed to take reasonable and timely steps to correct the violation.	2
	Violator cooperated after the Department discovered the violation but either failed to notify the Department of the violation or failed to take reasonable and timely steps to correct the violation.	1
Financial Gain	Violation has or would have resulted in financial gain for violator.	3
	No financial gain to violator as a result of violation.	0

006.04 To determine the adjusted fine, the base fine shall be adjusted based on the total number of points calculated from 25 NAC 13-013.03A and 013.03B and multiplying the base fine by the gravity adjustment percentage

of base value set forth below.

Adjustments for Gravity

Total Gravity Value	Adjustment
3 or below	25% of base value
4-6	50% of base value
7-10	75% of base value
11 or above	100% of base value

006.05 To determine the actual administrative fine, the adjusted fine as determined in 25 NAC 013.03C shall be multiplied by the appropriate value corresponding with the size of business criteria set forth below. In determining the amount of any fine, there shall be a rebuttal presumption that the gross revenue of any violator is over \$600,000.

Size of Business Criteria

Gross Revenue	Multiplier Value
\$0-25,000	0.2
\$25,001-100,000	0.4
\$100,001-250,000	0.6
\$250,001-500,000	0.8
over \$500,001	1.0

007 Planting of Certified Seed Potatoes.

The Director recognizes that the Potato Certification Association of Nebraska is the certification entity in the state of Nebraska to certify that seed potatoes are free of regulated plant pests of seed potatoes. A person planting seed potatoes in lots of one acre or more, for the purpose of distributing the crop to be harvested is required to use seed potatoes have been certified by the Nebraska certification entity or another approved state entity or have been inspected and to maintain records indicating the acreage, varieties, and source of all seed potatoes planted. The records must be available for inspection by the Nebraska certification entity for a period of three years from the date of planting. All seed potatoes imported into this state by any person, from any state, territory, or country, must be accompanied by a health certificate, official grade certificate, or other documentation approved by the Department.

008 Annotation. Neb. Rev. Stat. §§2-1072 to 2-10,117.

