

Editing comments: Changes to this rule are indicated in ~~bold strikethrough~~ for removal and **BOLD, SMALL CAP, DOUBLE UNDERLINE** for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

## Colorado Department of Agriculture

### Plant Industry Division

#### Rules Pertaining to the Administration and Enforcement of the Colorado Nursery Act

#### 8 CCR 1203-5

##### PART 5.0 FEES

##### 5.1 INSPECTION FEES - ACTUAL COST

A charge of forty-five dollars (\$45.00) per hour per inspector for actual inspection time shall be collected to defray the costs of inspections made pursuant to the statute. The minimum charge for each inspection made shall be the charge of one hour of inspection time.

##### 5.2 REGISTRATION FEES

The ANNUAL fee for a registration as required by § 35-26-106(1), C.R.S., shall be ~~ninety dollars (\$90.00)~~ **ONE HUNDRED SEVENTY DOLLARS (\$170.00)** for each place of business.

##### 12.0 Statements of Basis, Specific Statutory Authority and Purpose

##### 12.20 ADOPTED SEPTEMBER 17, 2019 – EFFECTIVE OCTOBER 30, 2019

##### STATUTORY AUTHORITY

THESE AMENDMENTS TO THE RULES ARE PROPOSED FOR ADOPTION BY THE COMMISSIONER OF THE COLORADO DEPARTMENT OF AGRICULTURE (“CDA”) PURSUANT TO THE AUTHORITY UNDER § 35-26-111, C.R.S., OF THE COLORADO NURSERY ACT (THE “ACT”).

##### THE PURPOSE OF THESE PROPOSED RULE AMENDMENTS IS AS FOLLOWS:

1. INCREASE THE REGISTRATION FEE FROM \$90.00/YEAR TO \$170.00/YEAR.

##### THE FACTUAL AND POLICY ISSUES ENCOUNTERED WHEN DEVELOPING THESE RULES INCLUDE:

1. THE NURSERY PROGRAM IS COMPRISED OF THREE MAIN PARTS. THE FIRST IS THE REGISTRATION OF ALL PERSONS ENGAGED IN THE ADVERTISING FOR SALE OR SELLING OF NURSERY STOCK. THE SECOND IS RISK-BASED INSPECTIONS OF NURSERIES, NURSERY DEALERS, AND TURF FARMS WHO IMPORT FROM JAPANESE BEETLE-QUARANTINED AREAS. THE THIRD IS ISSUANCE OF INSPECTION CERTIFICATES WITHOUT WHICH EXPORT OF COLORADO NURSERY STOCK AND LIVE PLANT PRODUCTS TO OTHER STATES WOULD BE IMPOSSIBLE. THROUGH THE REGISTRATION, INSPECTION, AND CERTIFICATION PROCESS, THE NURSERY PROGRAM ENSURES THAT NURSERIES PRODUCE AND DISTRIBUTE HEALTHY PLANTS.
2. CDA IS REQUIRED BY § 35-26-106(1), C.R.S., TO CHARGE A REGISTRATION FEE FOR EACH SEPARATE NURSERY, STORE, STAND, SALES GROUND, LOT, OR ANY LOCATION FROM WHICH NURSERY STOCK IS BEING SOLD, OFFERED FOR SALE, OR DISTRIBUTED. ALTHOUGH THE CAP FOR REGISTRATION FEES IS SET AT \$300, THE REGISTRATION FEE HAS BEEN \$90 SINCE 2009.

3. COSTS INCURRED TO ADMINISTER THE PROGRAM HAVE INCREASED SIGNIFICANTLY OVER THE PAST TEN YEARS GIVEN INFLATION RATES, YEAR-TO-YEAR INCREASES IN WAGES, AND OTHER COSTS NECESSARY FOR MAINTENANCE AND IMPLEMENTATION OF THE PROGRAM. SPECIFICALLY, THE COST OF ADMINISTERING THE PROGRAM OVER THE PAST DECADE HAS INCREASED APPROXIMATELY 35%. CURRENT REGISTRATION FEES DO NOT MEET OPERATIONAL REQUIREMENTS. BECAUSE THE REGISTRATION FEES ACCOUNT FOR 88% OF THE PROGRAM'S ANNUAL REVENUE, CDA HAS PROPOSED AN INCREASE IN ANNUAL REGISTRATION FEES TO \$170, WHICH WILL ALLOW THE PROGRAM TO FUNCTION EFFECTIVELY, MEET PROGRAM GOALS, AND BETTER ADMINISTER VARIOUS NURSERY PROGRAM COMPONENTS (E.G., ENFORCEMENT OF QUARANTINES).