

November 6, 2009

**New Mexico Department of Agriculture is proposing rule changes** to the "Fees for Lists, Documents and Services" rule (Title 21, Chapter 1, Part 2) for the purpose of: eliminating elements covered in other rules, editorial changes to reflect recent changes within the department; update fees to more closely reflect the cost of providing services; delete fee exemptions; and delete references to services that can no longer be provided by the department. Fees addressed in this rule have not been increased in over 20 years. Specifics related to principal proposed changes follow:

1) **ACTION:** Editorial changes throughout the document

**JUSTIFICATION:** Reflect nomenclature change within the department (i.e. bureau to section), address changes in rule structure to reflect deletions or additions to the rule, deletion of unused definitions, and grammatical corrections not corrected in previous revisions.

2) **ACTION:** Deletion of 21.1.2.9.C (1) "~~printed mailing lists—\$35.00~~"

**JUSTIFICATION:** Addressed in department policy applicable to the department rather than a specific division.

3) **ACTION:** Deletion of 21.1.2.9.C (2) "~~printed mailing labels—\$50.00~~"

**JUSTIFICATION:** Service no longer provided by the department.

4) **ACTION:** Fee increase and deletion of bulk certificates 21.1.2.9.C (3) "Certificates of inspection – [\$2] \$5 per [100] certificate"

**JUSTIFICATION:** Service is rarely requested by stakeholders and requirements often covered by state phytosanitary certificates. Fee change to result in a fee charge that more closely reflects the actual cost of providing this service, and to eliminate the issuance of bulk inspection certificates that may be used for unintended purposes.

5) **ACTION:** Deletion of 21.1.2.9.C (4) [~~(4) certificate of origin for in-shell pecans — \$2 per form.~~]

**JUSTIFICATION:** Service addressed in 21.1.2.9.C (6) "State phytosanitary certificates and state certificates of origin – [~~\$5] \$15 per certificate (either fully or partially completed by New Mexico department of agriculture staff)." The elimination of a special reduced fee for pecans compared to other New Mexico commodities.~~

6) **ACTION:** Restructuring of fees charged for federal phytosanitary certificates and deletion of fee exemptions within 21.1.2.9.C (5)a-e

"Federal phytosanitary certificate – not to exceed federal charges (certificate only; inspection and laboratory fees may be charged in addition to fees charged for certificates)[:]

~~[(a) Shipper is an employee of a university or state/federal laboratory or agency and the commodity is involved in a work-related project or program — "no charge."~~

~~\_\_\_\_\_ (b) Shipper is a current licensee under the New Mexico Plant Protection Act and commodity does not involve any threatened or endangered species or products made from them — "no charge."~~

~~\_\_\_\_\_ (c) Shipper does not meet criteria (a) or (b) above; waybill or invoice indicated that the total dollar amount of the commodity(ies) involved in the shipment is less than or equal to \$1,250 — \$19 each certificate.~~

~~\_\_\_\_\_ (d) Exporter shipping commodities under natural resource conservation service programs and possessing a pertinent copy of form RC 269 A, FORWARDING NOTICE — \$19 per certificate. The volume, weight or unit number of the commodity recorded on form KC 269 A must correspond to what is recorded on PPQ Forms 572 and 577; shipper must meet other paperwork requirements as detailed in most recent USDA phytosanitary notes."~~

~~\_\_\_\_\_ (e) Shipper does not meet criteria (a) through (d) above; waybill or invoice indicates that the total dollar amount of the commodity(ies) involved in the shipment is more than \$1,250 — \$30 each certificate.]"~~

**JUSTIFICATION:** Fees associated with the issuance of federal phytosanitary certificates by USDA-APHIS personnel were increased from \$50.00 per certificated to \$77.00 per certificate on October 1, 2009 and will continue to increase to \$106.00 per certificate in 2011. USDA also enacted an additional processing charge (\$3.00 - \$7.00/certificate) if federal phytosanitary certificates are issued by a cooperating agency i.e. New Mexico Department of Agriculture. The proposed changes will result in: a fee that more closely reflects the actual cost of providing the service by New Mexico Department

of Agriculture; and maintain an alternative agency for the issuance of federal phytosanitary certificates at a lower fee than those charged by USDA-APHIS. The deletion of specific fee exemptions simplifies the issuance of federal phytosanitary certificates, and allows the department to recover costs associated with the issuance of federal documents.

7) **ACTION:** Fee increase associated with the issuance of state phytosanitary certificates and certificates of origin from \$5 to \$15 per certificate. “State phytosanitary certificates and state certificates of origin – [~~\$5~~] \$15 per certificate (either fully or partially completed by New Mexico department of agriculture staff).”

**JUSTIFICATION:** Proposed fee change to result in a fee charge that more closely reflects the actual cost of providing this service.

8) **ACTION:** Deletion of specific services outlined in 21.1.2.9.C (10) a&b. [~~(a) nematode analysis – \$25/sample. (b) bee identification – \$25/sample.~~]

**JUSTIFICATION:** The department no longer has the capabilities to provide these services.

**Table 1. Result of proposed fee increase on income.**

CERTIFICATES	2008 <sup>1</sup>		PROPOSED		
	ISSUED (FEE/CERTIFICATE)	INCOME	NUMBER ISSUED <sup>2</sup> (FEE/CERTIFICATE)	INCOME	\$ INCREASE <sup>5</sup>
Federal Phytosanitary	665 (\$30)	\$19,950	400-665 (\$50) <sup>4</sup>	\$20,000-\$33,250	\$13,300
State Phytosanitary	715(\$5)	\$3,575	425-715 (\$15)	\$6,375-\$ 10,725	\$7,150
Certificate of Origin	220 (2\$ OR \$5)	\$800	150-220 (\$15)	\$2,250-\$3,300	\$2,500
sum		\$24,325		\$28,625-\$47,275	\$22,950

1. Considered an unusually “high” export year due to unique domestic and international conditions.
2. Average- high number of certificates issued per year
3. Based on 2008 “high” number of certificates issued
4. Fee based on expected charge of \$50; but option to increase without a regulation change to \$105.00

**Table 2. Comparison of Fee charges of surrounding states for phytosanitary certificates and certificates of origin.**

SERVICES	New Mexico (Proposed)	Arizona Dept. Ag	Colorado Dept. Ag.	Texas
Federal Phytosanitary Certificate	Language allows for \$50-\$106	Does not issue federal therefore industry pays federal charges <sup>1</sup>	\$60 <sup>2</sup>	\$77 <sup>2</sup>
State Phytosanitary Certificate	\$15	\$50	\$40	\$30
Certificates of Origin	\$15		N/C	

1. Federal charges escalating from current \$77.00 per certificate to \$106.00 in 2011.
2. Unknown if charge for federal phytosanitary certificates issued by the state will follow federal escalating charges.