

LCB File No. R065-02

**PROPOSED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

NOTICE OF WORKSHOP RESCHEDULE
(Replaces original Notice posted 4/3/2002)

A workshop will be held on proposed changes to amendments of the following administrative codes:

NAC 587.860 through 587.928, Nevada Organic Agricultural Products.

Date: Cancelled Friday, May 31, 2002; *Rescheduled Friday, June 28, 2002*
Time: 9:00 A.M.
Place: Department of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

For clarification on the proposed amendments, or to obtain a copy of the amendments, please contact Randy Bradley at (775) 688-1182 extension 244.

Addresses at which the text of the proposed regulation/amendment may be inspected and copied:

The Nevada State Library in Carson City, and all Nevada County Libraries, the Department of Agriculture offices in Reno, Sparks, Elko, Las Vegas, or Winnemucca, during the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday. The regulations may also be viewed on the Legislative Counsel Bureau web-site: www.leg.state.nv.us/law1/.cfm. From there go to Nevada Regulations, Browse the 2001 Regulations for Subject Index R033-01.

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary call Randy Bradley at (775) 688-1182, extension 244.

NRS 233B - permanent regulation not to be adopted until text approved or revised by the Legislative Counsel; agency's reason for adoption.

NRS 233B.064 (2) Upon adoption of any regulation, the agency, if requested to do so by an interested person before adoption, or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reasons for overruling the consideration urged against the adoption.

Paul Iverson, Director

Date

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the adoption of Regulations of the Nevada Department of Agriculture

(Replaces original Notice posted 4/3/2002)

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to chapter 587 of the Nevada Administrative Code. The proposed changes include the adoption by reference of the federal regulations for organic certification, changes in the fee schedule, and the elimination of sections of chapter 587 that conflict with the federal regulations. The following information is provided pursuant to the requirements of NRS 233B.060:

Need for and purpose of the proposed regulation or amendment

The federal regulations for the National Organic Program have now become effective and anyone requesting to be certified by the department for the production or handling of organic products must comply with the federal law and regulations. Much of NAC 587 pertaining to the certification of organic products is now in conflict the federal rules. The fee schedule will be adjusted to reflect additional fees charged to the department by the federal government.

Economic effect of the proposed regulation on the businesses, which it is to regulate

- a. Adverse effects:
There will be an increase in the cost to individuals and companies requesting organic certification.
- b. Beneficial effects:
The adoption of the federal regulations for organic certification will allow producers and handlers of organic products to sell products labeled as “organic” nationally.
- c. Immediate and long-term effects:
The immediate and long-term effects of these proposed changes are similar.

Economic effect of these proposed amendments on the public.

- a. Adverse effects:
There are no adverse effects on the public.
- b. Beneficial effects:
Local economies could benefit from the increased value of commodities produced and consumers may benefit from uniform national standards for organic products being marketed.
- c. Immediate and long-term economic effects:
The immediate and long-term effects should be about the same.

Economic cost to the agency for enforcement of the proposed amendments

The proposed increase in fees should nearly equal any additional costs to the agency.

Description of any regulations of other state, local or federal governmental agencies, which the proposed amendments overlap or duplicate

There are no other governmental agencies involved in these programs.

Fees

Existing fees will be increased to reflect the additional costs to the department to provide a voluntary program for the certification of organic commodities. The increased costs are due primarily to fees charged to the department by the federal government for state accreditation.

Date: Cancelled - Friday, May 31, 2002; ***Rescheduled Friday, June 28, 2002***

Time: 10:00 AM

Place: Department of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may appear at the scheduled public hearing or may address their comment, data, views, or arguments, in written form, to the Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502. Written submissions must be received by the Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502, on or before April 4, 1999. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502, may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502; the Nevada Department of Agriculture, 1550 South Wells Avenue, Reno, NV 89502; the Nevada Department of Agriculture, Eyer H. Boies Building, 1351 Elm Street, Elko, NV 89801; the Nevada Department of Agriculture, 2150 Frazer Street, Sparks, NV 89431; the Nevada Department of Agriculture, 1200 East Winnemucca Blvd., Winnemucca, NV 89445; the Nevada Department of Agriculture, 2300 McLeod, Las Vegas, NV 89104; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and text of the proposed regulation are also available in the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the department, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for or against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Nevada Department of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431

Nevada Department of Agriculture
1550 South Wells Avenue
Reno, NV 89502

Nevada Department of Agriculture
1200 E. Winnemucca Blvd.
Winnemucca, NV 89445

Nevada Department of Agriculture
Eyer H. Boies Building
1351 Elm Street
Elko, NV 89801

Nevada Department of Agriculture
2300 McLeod
Las Vegas, NV 89104

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please call Robert Gronowski at the Nevada Department of Agriculture, 775-688-1180, as soon as possible.

PROPOSED REGULATION OF THE STATE DEPARTMENT OF AGRICULTURE

Text to be added: **xxxxxx**

Text to be deleted: ~~xxxxxxx~~

NEVADA ORGANIC AGRICULTURAL PRODUCTS

General Provisions

NAC 587.860 Definitions. (NRS 561.105, 587.830) As used in NAC 587.860 to 587.928, inclusive, unless the context otherwise requires, the words and terms defined in NAC 587.861 to 587.899, inclusive, have the meanings ascribed to them in those sections.

~~[NAC 587.861 — “Agricultural product” defined. (NRS 587.830) — “Agricultural product” means an animal or vegetable product certified pursuant to this chapter or the federal act.]~~

~~[NAC 587.862 — “Animal product” defined. (NRS 587.830) — “Animal product” includes dairy products, meat, wool, mohair and other livestock products, poultry and poultry products, apiary products and aquacultural products.]~~

~~[NAC 587.863 — “Botanical pesticide” defined. (NRS 587.830) — “Botanical pesticide” means a pesticide derived from one or more plant materials.]~~

~~[NAC 587.864 — “Certified organic farm” defined. (NRS 587.830) — “Certified organic farm” means a farm, or portion of a farm, or other site where agricultural products or livestock are produced, that is certified by the department or an approved organic certifying agent as utilizing a system of organic farming as described in this chapter.]~~

~~[NAC 587.865 — “Commingled” defined. (NRS 587.830) — “Commingled” means mixed or interspersed with other food or fiber that may or may not be distinguishable from the original food or fiber.]~~

~~[NAC 587.866 — “Contaminated” defined. (NRS 587.830) — “Contaminated” means, as applied to organic food or fiber, unfit for use because of the presence of an unacceptable level of one or more prohibited materials.]~~

~~[NAC 587.867 — “Dairy animal” defined. (NRS 587.830) — “Dairy animal” means an animal or animals raised for milk or milk products.]~~

~~[NAC 587.868 — “Drift” defined. (NRS 561.105, 587.830) — “Drift” means the movement of one or more prohibited materials by air, water or soil from the intended target that results in residues of prohibited materials on organic food in excess of 5 percent of the tolerance level established by the United States Environmental Protection Agency.]~~

~~[NAC 587.869 “Farm” defined. (NRS 587.830) “Farm” means all agricultural land that is leased, owned or otherwise held by and under the management of a certified producer or applicant for certification.]~~

~~[NAC 587.870 “Farm plan” defined. (NRS 587.830) “Farm plan” means all documents relevant to the current, future and previous 3 years’ management of an organic farm, including, without limitation, written plans to rotate crops, build humus and stabilize soil nutrients.]~~

NAC 587.871 “Federal act” defined. (NRS 587.830) “Federal act” means the Organic Foods Production Act of 1990, 7 U.S.C. §§ 6501 et seq., as amended.

~~[NAC 587.872 “Feed” defined. (NRS 587.830) “Feed” means edible materials for consumption by livestock, including concentrates, such as grains, and roughage, such as hay, silage and material in a pasture. The term includes all agricultural commodities, including material in a pasture, that are ingested or intended for ingestion by livestock for nutritional purposes.]~~

~~[NAC 587.873 “Feed additive” defined. (NRS 587.830) “Feed additive” means a substance or combination of substances, such as minerals, amino acids and vitamins, that are added to feed in microquantities to fulfill a specific need.]~~

~~[NAC 587.874 “Field” defined. (NRS 587.830) “Field” means a clearly demarcated, contiguous tract of agricultural land leased, owned or otherwise held by and under the management of a certified producer or applicant for certification.]~~

~~[NAC 587.875 “Greenhouse” defined. (NRS 587.830) “Greenhouse” means a fully or partially enclosed structure that is used for the propagation, cultivation or protection of food or fiber. The term includes weather shelters and hot or cold frames.]~~

~~[NAC 587.876 “Handler” defined. (NRS 587.830) “Handler” means a person who processes, packages, stores, transports or sells animal or vegetable products. The term does not include a final retailer who does no processing of animal or vegetable products.]~~

~~[NAC 587.877 “Handling plan” defined. (NRS 561.105, 587.830) “Handling plan” means a system designed to eliminate the potential of contamination of organic food and fiber from prohibited materials and the commingling of nonorganic and organic food or fiber.]~~

~~[NAC 587.878 “Ingredient information panel” defined. (NRS 587.830) “Ingredient information panel” means the statement of ingredients contained in a product that appears on the principal display panel or information panel and lists the ingredients in descending order of predominance in the product.]~~

~~[NAC 587.879 “Labeling” defined. (NRS 561.105, 587.830) “Labeling” includes all written, printed and graphic matter which is placed upon any product or any of the containers or wrappers of a product or which accompanies such a product or is used in the advertisement of such a product.]~~

~~[NAC 587.880 — “Livestock” defined. (NRS 587.830) — “Livestock” means cattle, sheep, goats, swine, poultry and equine animals used for food or fiber, fish used for food, wild or domesticated game, or other nonplant life.]~~

~~[NAC 587.8805 — “Material” defined. (NRS 561.105, 587.830) — “Material” means a substance used in the production, processing or handling of agricultural products, soil, livestock or livestock products, including, without limitation, fertilizers, pesticides, adjuvants, equipment cleaners, plant growth regulators, sanitizers, processing additives and aids, medications and hormones.]~~

~~[NAC 587.881 — “Material use reports” defined. (NRS 587.830) — “Material use reports” means records required by the department regarding the use of materials listed as “allowed” or “allowed with restrictions” which have been used for the production or handling of certified organic food or fiber.]~~

~~[NAC 587.882 — “National list” defined. (NRS 587.830) — “National list” means the list of materials categorized as allowed or prohibited for use in organic crop production and as processing ingredients and aids and handling materials as provided under the federal act.]~~

~~[NAC 587.883 — “New applicant” defined. (NRS 561.105, 587.830) — “New applicant” means any person or organization applying for organic certification for the first time or after the previous certification status has been expired for 1 year or more.]~~

~~[NAC 587.8835 — “Organic certifying agent” defined. (NRS 561.105, 587.830) — “Organic certifying agent” means an agent of the department who has been approved by the department pursuant to NAC 587.902.]~~

~~[NAC 587.884 — “Organic pasture” or “organic range” defined. (NRS 587.830) — “Organic pasture” or “organic range” means ground which is covered with vegetation suitable for grazing and which has been managed in accordance with the standards for organic crop production for at least 36 months.]~~

~~[NAC 587.885 — “Organically produced” defined. (NRS 587.830) — “Organically produced” means an agricultural product that is produced and handled in accordance with the provisions of this chapter.]~~

~~[NAC 587.886 — “Person” defined. (NRS 587.830) — “Person” includes individuals, partnerships, corporations, associations, governmental subdivisions, and public and private organizations.]~~

~~[NAC 587.887 — “Pesticide” defined. (NRS 587.830) — “Pesticide” means a material or mixture of materials intended:~~

- ~~—1. To prevent, destroy, repel or mitigate any pest; or~~
- ~~—2. To be used as a plant regulator, defoliant or desiccant.]~~

~~[NAC 587.888 — “Poultry” defined. (NRS 587.830) — “Poultry” means domestic birds produced for meat, eggs or other poultry products.]~~

~~[NAC 587.889 — “Principal display panel” defined. (NRS 587.830) — “Principal display panel” means the part of a label which is most likely to be seen by a retail customer and which bears the declaration of net quantity of the contents and a statement of identity.]~~

~~[NAC 587.890 — “Processing” defined. (NRS 587.830) — “Processing” means baking, churning, cutting, dehydrating, drying, eviscerating, extracting, fermenting, freezing, grinding, heating, mixing, preserving, separating or otherwise manufacturing and includes enclosing food in a container.]~~

~~[NAC 587.891 — “Producer” defined. (NRS 587.830) — “Producer” means a person who engages in the business of growing or producing an animal or vegetable product.]~~

~~[NAC 587.892 — “Prohibited material” defined. (NRS 561.105, 587.830) — “Prohibited material” means a material that is not permitted to be used in the production or handling of organic agricultural products.]~~

~~[NAC 587.893 — “Propagation materials” defined. (NRS 587.830) — “Propagation materials” means plant materials, including seeds, transplants, cuttings, layerings, bulbs, tubers, slips, crowns, offsets, grafts, buddings and root stocks, and other plant parts used to propagate plants.]~~

~~[NAC 587.894 — “Remedy” defined. (NRS 587.830) — “Remedy” means anything that relieves or cures a disease.]~~

~~[NAC 587.895 — “Renewal applicant” defined. (NRS 561.105, 587.830) — “Renewal applicant” means a person who was granted organic certification in the previous calendar year.]~~

NAC 587.896 “Site” defined. (NRS 587.830) “Site” means a specified field, orchard, block, pasture, paddock, garden, circle, plot or other designated area.

~~[NAC 587.897 — “Slaughter stock” defined. (NRS 587.830) — “Slaughter stock” means an animal that is raised for meat or other products.]~~

~~[NAC 587.898 — “Synthetic” defined. (NRS 587.830) — “Synthetic” means a material that is formulated or manufactured by a chemical process or by a process which chemically changes a substance extracted from naturally occurring plant, animal or mineral sources, except that the term does not include materials created by naturally occurring biological processes.]~~

~~[NAC 587.899 — “Vendor” defined. (NRS 587.830) — “Vendor” means a person, other than a handler or producer, who sells, labels, markets or advertises agricultural products as “organic” to a customer or another vendor.]~~

~~[NAC 587.8995 — Compliance with chapter and federal act; proof of certification. (NRS 561.105, 587.830)~~

~~—1. A person shall not:~~

~~—(a) Make a claim or imply in the advertising, selling or labeling of an organic agricultural product that the product is “organic,” “certified organic,” “registered organic” or produced and~~

~~handled according to organic methods unless it conforms to the requirements of this chapter and the federal act.~~

~~—(b) Sell an agricultural product that has been represented by the seller to be “organic,” “certified organic,” “registered organic” or produced and handled according to organic methods unless the product is certified by the department or an organic certifying agent.~~

~~—2. Upon the request of the department, a person shall provide the department with all records pertaining to the sale of an agricultural product that was represented by the seller to be “organic,” “certified organic,” “registered organic” or produced and handled according to organic methods which verify that the product was certified by the department or an organic certifying agent.]~~

Certification and Registration Generally

Section 1. *The Federal Regulations for certification under the National Organic Program as set forth in 7 CFR Part 205 Paragraph 205.100 through Paragraph 205.690, inclusive, as these sections existed on September 1, 2001, are adopted by reference as the requirements for organic certification in this state. The regulations may, upon request, be obtained from the department free of charge.*

~~[NAC 587.900—Certification by department of producers and handlers; application; limitations on new certifications; producer and handler numbers. (NRS 561.105, 587.830)~~

~~—1. The department shall certify producers and handlers of organic agricultural products in this state.~~

~~—2. Producers and handlers must be certified on an annual basis as prescribed by the department.~~

~~—3. To obtain initial certification, a producer or handler of organic agricultural products must submit a completed application and the required fees to the department on or before one of the following deadlines:~~

~~—(a) At least 90 days prior to the harvest of the agricultural product to be certified; or~~

~~—(b) Before operating as a handler of organic products.~~

~~—4. Each application must include such supporting documentation as the department determines necessary for each farm, field, handling facility and other location to be evaluated for certification.~~

~~—5. Food, feed or fiber harvested within 90 days after receipt of an application for new certification by the department must not be certified as “organic.”~~

~~—6. Upon request of the department, the advisory council for organic agricultural products may review and make recommendations on any application pursuant to this chapter.~~

~~—7. The department shall issue a certification document and a producer or handler number to each producer or handler of organic agricultural products who is certified by the department. Except as otherwise provided in subsection 8, the producer shall include his producer number and the following statement on each receipt from a sale from the producer to the first handler:~~

~~—“Nevada Department of Agriculture Certified Organic Producer #____.”~~

~~—8. A producer who sells certified organic products directly to consumers at a farmers’ market or through a facility on a farm shall post the certification document and producer number in a conspicuous location in the sales area or distribution area of the market or facility.]~~

~~[NAC 587.9005—Denial of certification; assignment of “certification pending” status. (NRS 561.105, 587.830)~~

~~—1.— The department may deny certification to an applicant for certification as a producer or handler who fails to demonstrate the ability to comply with the provisions of this chapter.~~

~~—2.— The department may assign “certification pending” status to new applicants who do not currently meet all standards for certification. Certification pending status may be extended until such time as the applicant meets all program requirements.]~~

~~[587.901— Inspections of farm, facility or site; complaints for violations of provisions of chapter. (NRS 561.105, 587.830)~~

~~—1.— The department shall require:~~

~~—(a) An initial inspection of each applicant’s farm, facility or site at a time when normal production or sales activity can be observed; and~~

~~—(b) At least one on-site inspection per year for annual renewal of certification for each farm, facility or other location for which certification has been granted.~~

~~—2.— The department may conduct:~~

~~—(a) An additional on-site inspection of each certified producer or handler when normal production or sales activities can be observed; and~~

~~—(b) Inspections regarding complaints.~~

~~—3.— An inspection may include a survey of required records, an examination of crops and fields, the taking of samples for analysis and any other actions deemed necessary by the department.~~

~~—4.— A person with cause to believe that a provision of this chapter has been violated may file a written complaint with the department setting forth the facts of the alleged violation.~~

~~—5.— The department shall:~~

~~—(a) Investigate written complaints related to certified organic food or fiber; and~~

~~—(b) Maintain records of all complaints, investigations and remedial actions for 10 years after the completion of the investigation.]~~

~~[NAC 587.902— Organic certifying agent: Approval by department; compliance. (NRS 561.105, 587.830)~~

~~—1.— The department may approve a person as an organic certifying agent if the department determines that the:~~

~~—(a) Certification standards of the person are equivalent to the certification standards of the department;~~

~~—(b) Policies and procedures of the person are in compliance with the provisions of this chapter, chapter 587 of NRS, the federal act and any applicable orders of the department;~~

~~—(c) Person demonstrates sufficient expertise in organic farming and handling techniques to comply fully with and implement the terms and conditions of this chapter; and~~

~~—(d) Person has at least 2 years of experience conducting inspections of organic producers and handlers.~~

~~—2.— Upon request by the department, a producer or handler of organic agricultural products who is certified by an organic certifying agent shall provide to the department documents provided by the agent which demonstrate that the agent is in compliance with this section and that the certification issued by the agent is current and valid. If a producer or handler of organic agricultural products fails to provide such documents, the department shall issue a notice of noncompliance to the producer or handler. If a producer or handler who has been issued a notice of noncompliance fails to comply fully with this subsection within the time required in the notice, the department shall deem the~~

~~producer or handler to be not certified to produce or handle organic agricultural products until he fully complies.]~~

NAC 587.903 Logo for certification seal. (NRS 561.105, 587.830) The department shall use the following logo as a certification seal. The logo must include the phrase “Nevada Department of Agriculture Certified Organic” and must be in substantially the following form:



NAC 587.904 Use of certification seals. (NRS 561.105, 587.830)

1. The Nevada Department of Agriculture Organic Certification Seal may be placed on all:
 - (a) Containers of organic agricultural products that are certified by the department;
 - (b) Bulk displays which advertise organic agricultural products that are certified by the department for sale; and
 - (c) Processed organic foods which contain 95 percent or more by volume of organically grown ingredients that are certified by the department.
2. The authorization to imprint facsimile seals granted by subsection 1 is subject to review by the director on an annual basis, or more frequently, if determined necessary by the director.
3. A person shall not change the Nevada Department of Agriculture Organic Certification Seal from the form prescribed in NAC 587.903 except for increases or decreases in size and changes in color.

NAC 587.905 ~~[Expiration of]~~ Application for certification; fees for issuance and ~~[renewal]~~ continuation of certification; late fees. (NRS 561.105, 587.830)

1. ~~[The certification of a producer or handler of organic agricultural products issued by the department expires on March 31 of the year following the calendar year in which the certification was issued.]~~ *To obtain certification, a producer or handler of organic agricultural products must submit a completed application and the required fees to the department.*
 - (a) *For each succeeding calendar year in which certification is effective, an annual certification update form and the required fees must be submitted..*
 - (b) *Annual certification update forms and fees must be submitted by March 31.*
 - (c) *New applications received after January 1 and processed before March 31 will not be charged for again that calendar year.*

(d) Applications for new certification of food, feed or fiber must be submitted no later than 90 days prior to harvest of the food, feed or fiber to be sold as organic.

2. ~~{Except as otherwise provided in subsection 3, t}~~The department shall charge a ~~{nonrefundable}~~ fee *for each producer or handler application which must be submitted with a new application or an annual certification update form: [as follows for each initial or renewal application submitted to the department pursuant to this chapter:*

~~—(a) Producers\$100~~
~~—(b) Handlers 100}~~

(a) For each new application, a non-refundable fee of \$75.

(b) For each year after the first, a non-refundable fee of \$50.

(c) For each new application, and for each calendar year thereafter, the amount from the chart below based on the applicant's estimate of gross income from organic sales in the calendar year for which certification is requested.

<i>Gross Income</i>	<i>Amount</i>
<i>0 to \$5,000</i>	<i>0</i>
<i>\$5,001 to \$15,000</i>	<i>\$50</i>
<i>\$15,001 to \$100,000</i>	<i>\$100</i>
<i>\$100,001 to \$250,000</i>	<i>\$200</i>
<i>\$250,001 to \$500,000</i>	<i>\$300</i>
<i>Over \$500,000</i>	<i>\$500</i>

(1) For handlers, the gross sales fee applies to all organic products handled at a site certified by the Nevada Organic Program.

(2) For producers, the gross sales fee applies only to production from operations certified by the Nevada Organic Program.

(3) This fee will be refunded if a request for certification is withdrawn in writing and received by the department prior to the initial site inspection for the year certification was requested.

(d) For each initial on-site inspection a non-refundable fee of \$25 per hour, for actual inspection time spent at the inspection site or sites, will be charged and billed to the applicant after the inspection has been completed.

~~{3.—A person who produces and handles only his own organic agricultural products must only be required to pay one certification fee of \$100.}~~

~~{4.—In addition to the fees prescribed in subsections 2 [and 3], each new applicant for certification shall pay an additional fee for new applicants of \$35.}~~

~~{5.—Each certification fee includes the fee for an on-site inspection before certification and an on-site inspection during the production season.}~~

~~{6.}~~ 3. An *annual* application for ~~{the renewal of a}~~ certification that is received by the department after March 1 must be considered late and must be accompanied by a late fee of \$50 in addition to the fee or fees otherwise prescribed by this section.

~~{7.—The department shall consider an application to renew a certification that has been expired for more than 1 year as a new application for certification for the purposes of this section.}~~

NAC 587.906 Fees for addition of fields, sites or areas to be certified, additional inspections, and reproduction and mailing of application forms. (NRS 561.105, 587.830)

1. Except as otherwise provided in subsection 2, in addition to all other fees prescribed by the department, the department shall charge the following additional fees for the fields, sites or areas to be certified after the initial inspection has been completed and for any other additional inspections:

(a) For each hour of inspection, calculated from the inspector's assigned office,
per hour ~~[\$20.00]~~ **\$25.00**

(b) For mileage, per mile..... .40

(c) For the per diem of the inspector, the amounts currently allowed by law for state employees, under the conditions set by the department.

2. The department shall prorate the fees prescribed by subsection 1 among the persons whose property is inspected in the same area if all inspections can be completed during the same trip of the inspector, as determined by the department.

3. The director may also charge a reasonable fee to cover the costs of the reproduction and mailing of application forms.

~~[Producers of Vegetable Products]~~

~~[NAC 587.907—Requirements for certification; contents of application. (NRS 561.105, 587.830)~~

~~—1. The department shall certify a producer of organic agricultural products if:~~

~~—(a) Inspection of the producer by the department showed no use of prohibited practices as determined pursuant to this chapter and the federal act;~~

~~—(b) The department finds that the recordkeeping practices of the producer meet the requirements of this chapter;~~

~~—(c) All programs for soil building, programs for organic pest management and buffer zones required by this chapter were established on each site;~~

~~—(d) The analysis of all samples taken by the department showed that no prohibited materials had been used and there was no drift of other contaminants; and~~

~~—(e) The department determines that prohibited materials have not been used for at least 36 months before the harvest of organic agricultural products.~~

~~—2. If a farm, site or field does not remain continuously certified, it must be recertified pursuant to the requirements for new certification before it is used to produce organic agricultural products.~~

~~—3. An applicant for certification as a producer of organic agricultural products must provide the following information to the department:~~

~~—(a) A 3-year history of all crops or agricultural products produced;~~

~~—(b) A 3-year history of all materials added to or used in the production, including pesticides and fertilizers; and~~

~~—(c) Any additional supporting documentation required by the department.~~

~~—4. An applicant for initial certification or renewal of certification as a producer of organic agricultural products must submit to the department a detailed farm plan including:~~

~~—(a) A 3-year rotation and cover cropping plan to stabilize nutrients in the soil for each field to be certified; and~~

~~—(b) A 1-year, field-by-field plan for crop production, soil and plant fertility plan, and pest management plan.~~

~~—5.— Each application for certification as a producer of organic agricultural products must include a notarized affidavit on a form provided by the department attesting to the truth of all information furnished to the department and an agreement to comply with the provisions of this chapter.]~~

~~[NAC 587.908—Records of certain producers; commingling; certification of farm, field or site; contamination; soil fertility tests. (NRS 561.105, 587.830)~~

~~—1.— A producer of both organic agricultural products and other agricultural products on the same farm shall keep separate records for each of these two categories of products and make such records available at all times for inspection by the department. The records for the nonorganic agricultural products must meet the requirements of subsection 1 of NAC 587.909.~~

~~—2.— A producer of the same crop or agricultural product grown both organically and nonorganically on the same farm must demonstrate with clear and convincing evidence that physical facilities and organizational structure are in place to prevent commingling. In the absence of such proof, no food or fiber of that type from that farm may be certified and the producer shall not sell the food or fiber as an organic product. The department shall also apply these criteria to situations in which an uncertified crop is produced by the same producer on another farm unit or is purchased for resale.~~

~~—3.— A field may be certified as organic by the department if there has been no use of prohibited materials, including, without limitation, synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, arsenicals or other synthetic materials during the year of production and for at least 36 months preceding harvest.~~

~~—4.— In cases of a farm, field or site, the area to be certified must have distinct, defined boundaries and buffer zones separating land being operated through the use of organic methods from land that is not being operated through the use of such methods.~~

~~—5.— Machinery and equipment must be in such condition as to avoid contamination of soil or crops from hydraulic fluid, fuel, oil or other contaminants.~~

~~—6.— The department shall not certify land that has no previous history as cultivated cropland, orchard or improved pasture if that land is being converted to organic for the sole purpose of replacing land that has been abandoned because of chemical contamination or depleted fertility resulting from previous farm management practices.~~

~~—7.— An applicant shall present the results of soil fertility tests for each field or each greenhouse unit with in-ground growing beds to be certified initially and every third year thereafter using testing methods as prescribed by the director.]~~

~~[NAC 587.909—Maintenance of records. (NRS 561.105, 587.830)~~

~~—1.— Each producer who sells an agricultural product that is identified as organic shall keep accurate records of:~~

~~—(a) The field or greenhouse number, as specified in farm maps, to which any material was applied;~~

~~—(b) Any material applied to the plants, soil or water where the crop is being produced, including the:~~

~~— (1) Type of material applied;~~

~~— (2) Manufacturer of the material;~~

~~— (3) Date and rate of application; and~~

~~— (4) Method and type of equipment used; and~~

~~—(c) Harvests and sales for all organic agricultural products produced and sold by the producer.~~

~~—2.— Each producer shall maintain auditable records for a minimum of 5 years after the date on which the record was created.~~

~~—3.— The department may deny or suspend the certification of a producer for intentionally falsifying or refusing to supply adequate records until the department is provided with adequate records.]~~

~~[NAC 587.910—Requirements for organic production. (NRS 561.105, 587.830)~~

~~—1.— Each organic producer shall use a variety of resources for information regarding organic production in addition to the following requirements:~~

~~—(a) Fertility must be fostered primarily by managing organic content of the soil through the proper tillage, crop rotation and manuring.~~

~~—(b) Soil management must conform to recognized organic practices and principles of soil conservation.~~

~~—(c) Each producer shall rotate all crops according to a written rotation plan except:~~

~~—(1) Perennial crops;~~

~~—(2) Crops in permaculture systems;~~

~~—(3) Crops grown in containers; and~~

~~—(4) Crops grown on a nonrotating basis in accordance with accepted regional practices for maintaining balanced fertility management with other allowed practices.~~

~~—2.— A rotation plan may include alternation of sod or forage and row crops, nitrogen fixing crops, green manure crops, cover and nurse crops, deep-rooting crops, alternation of heavy and light feeders, or plants with allelopathic or mineral accumulating properties.~~

~~—3.— Raw manure may be applied to green manure crops, perennial crops or crops not grown for human consumption. Raw manure may be applied to crops for human consumption if the crop is harvested not less than 120 days after the most recent application of manure. Raw manure may not be applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria. Use of manure composted either by aerobic digestion (high heat) or controlled fermentation (low heat) is recommended. Liquid manure slurry may be used if the slurry is aerated from a source that adds carbon to the slurry.~~

~~—4.— In implementing an annual or overall 3-year farm plan, a producer shall utilize green manure crops, nitrogen fixing or cover crops, composted materials, nitrogen fixing microorganisms and other allowed materials for supplying plants with nitrates at low concentrations.~~

~~—5.— In implementing a temporary measure in an annual farm plan, a producer may utilize materials listed as “allowed with restrictions,” if that use is justified by an analysis of soil and plant nutrients. A justification pursuant to this subsection must be supported by documentation relating to the analysis.]~~

~~[NAC 587.911—Management plans. (NRS 561.105, 587.830)~~

~~—1.— A weed management plan may include:~~

~~—(a) Timely mechanical or hand cultivation, crop rotations, smother crops, mulching with organic materials, intercropping plant species such as legumes or green manure crops, practices that prevent introduction of weed seeds into fields, such as mowing borders, cleaning equipment and use of weed-free materials, electrical, steam or flame weeding equipment, biodynamic preparations and mowing or grazing; and~~

~~—(b) Approved herbicidal soaps and oils, and synthetic or biodegradable plastic used for covering soil surfaces, row covers and solarization, if such materials are removed at the end of each growing~~

~~or harvest season and not introduced into soil, compost or mulch, and mulches made of recycled newspapers.~~

~~—2. A disease management plan may include:~~

~~—(a) Production schedules, crop selection, location and sizing of plantings, and soil management practices to prevent diseases;~~

~~—(b) Preventative management, such as planting resistant varieties and rootstocks, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations and avoidance of excessive fertilization;~~

~~—(c) For greenhouse management, the management of ventilation, humidity and temperature to reduce the incidence of disease;~~

~~—(d) Materials listed as “allowed with restrictions,” if justified for immediate disease control; and~~

~~—(e) The application of approved natural fruit waxes if the shipping containers indicate the type of natural fruit wax that was applied to the enclosed certified products.~~

~~—3. An insect management plan may include:~~

~~—(a) Planned production schedules, crop selection, location and sizing of plantings, and soil management practices to prevent insect infestations;~~

~~—(b) Preventative management such as planting resistant varieties, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations and avoidance of excessive fertilization;~~

~~—(c) Mechanical or electrical controls, sticky traps, repellent crops and apparatus, vacuuming, water jets, physical barriers and traps, and sound;~~

~~—(d) Pheromones used in traps, including use in monitoring pest occurrence, emergence, life cycles and mating disruptives;~~

~~—(e) Pheromone traps or bait sticks containing prohibited materials, if these materials do not contact certified crops and are not added to soil or water;~~

~~—(f) Biological controls, release of natural predators and parasites and manipulation of the habitat, crops planted for insectories, supplemental food, and hosts of natural predators and parasites;~~

~~—(g) Other biological controls, including entomopathic protozoa, nematodes, algae or other biological controls;~~

~~—(h) Microbial diseases, including viral, bacterial and entomopathic fungal diseases such as *Bacillus thuringiensis* (Bt), *Bacillus* spp., *Beuvaria* spp., *Nosema* spp. and Nuclear Polyhedrosis Virus (NPV), except microbial diseases from a genetically engineered source; and~~

~~—(i) Materials listed as “allowed with restrictions,” if justified for immediate insect control measures.~~

~~—4. A management plan for the control of rodents, gophers, deer and other varmints may include use for control or as a repellent:~~

~~—(a) Live traps, physical barriers, sound, electrical devices, shooting or materials listed as “allowed” in the material list published by the department; and~~

~~—(b) Materials listed as “allowed with restrictions” in the material list published by the department if justified for immediate reduction of crop loss because of the abnormal occurrence of these pests.~~

~~—5. A management plan for the use of growth regulators, growth promoters, activators and inoculants may include:~~

~~—(a) Natural enzymes, herbal preparations, biodynamic preparations, rhizobial inoculants, free-living nitrogen fixing microbial cultures, blue green algae, cellulolytic bacteria, natural rooting hormones, adjuvants or wetting agents for foliar applications and materials listed as “allowed” in the material list published by the department; and~~

~~—(b) Materials listed as “allowed with restrictions” in the material list published by the department or the national list, if justified as a temporary measure in the production of food or fiber.]~~

~~[NAC 587.912—Propagation materials. (NRS 561.105, 587.830)~~

~~—1.— A producer shall only use propagation materials that are organically produced except that nonorganically produced seed may be used when equivalent organically produced seed is not commercially available.~~

~~—2.— Seeds used for producing organic edible sprouts must be 100 percent certified organically produced. Sprouts produced from noncertified organic seeds must not be certified under this chapter.~~

~~—3.— A producer shall use untreated seeds for food, feed or fiber unless seeds treated with synthetic fungicide are the only seeds available for certain crop varieties. Seeds treated with prohibited fungicides may be used on a temporary basis if the producer can demonstrate through written documentation that untreated seeds are unavailable.~~

~~—4.— The use of prohibited materials on or in seed is prohibited unless the use of the prohibited material is required under local, state or federal quarantine requirements.~~

~~—5.— Annuals must be grown organically from seed through harvest. Annual transplants must be organically grown to meet the standards for organic crop production.~~

~~—6.— The department may consider nonorganically grown perennial transplants to be “organic” after they have been grown under organic practices for 1 year.~~

~~—7.— A producer may not use commercial soil mixes that contain materials listed in the prohibited materials list published by the department.~~

~~—8.— As used in this section, the term “seed” includes strawberry crowns, seed garlic and seed potatoes.]~~

~~[NAC 587.913—Greenhouse production. (NRS 587.830)~~

~~—1.— Except as otherwise provided in subsection 2, greenhouse production must comply with all provisions of this chapter.~~

~~—2.— The department may allow the certification of products grown in benches or containers which are not operated as in-ground or permanent soil systems if the producer demonstrates to the satisfaction of the department that the previous use of prohibited materials will not contaminate or compromise the integrity of the greenhouse structure, production system or crops and transplants.~~

~~—3.— Plants and soil must not be in direct contact with wood that is used for greenhouse structures, benches or raised beds if the wood has been treated with prohibited materials.~~

~~—4.— Both organic and nonorganic production sites may coexist in a greenhouse operation if the following requirements are met:~~

~~—(a) An impermeable wall must separate all organic and nonorganic production units;~~

~~—(b) The construction and use of ventilation systems and irrigation systems must ensure that prohibited materials do not contaminate organic production units from nonorganic units;~~

~~—(c) Prohibited materials applied during the mixing of potting soils for use in nonorganic production must not contaminate and must not be commingled with materials or soil mixes used for the propagation or production of organic crops or transplants;~~

~~—(d) Adequate facilities and methods must be used for the storage and handling of organic crops and transplants for shipping or display and must ensure the correct identification of organic products and the prevention of commingling;~~

- ~~—(e) Separate records must be maintained for nonorganic and organic crops regarding materials used for the production of the crops and transplants and the volume or numbers of the crops or transplants produced or sold; and~~
- ~~—(f) Greenhouse units must be conspicuously labeled as being in organic production, and in the case of mixed operations, the containers used for organic crops and transplants must be clearly labeled and distinguishable from those used for nonorganic units.~~
- ~~—5. The department may allow the certification of food and fiber produced in hydroponic mediums not containing soil if all applicable requirements of this section for greenhouse production have been met.]~~

[Producers of Animal Products]

~~[NAC 587.914—Requirements for animal products marketed and labeled as organic. (NRS 561.105, 587.830)~~

- ~~—1. All animal products marketed and labeled as organic must be produced by producers certified by the department or an organic certifying agent. A producer of organic animal products seeking certification as an organic food producer may apply for certification pursuant to this chapter.~~
- ~~—2. Meat produced from bovine animals must meet the following requirements:~~
 - ~~—(a) Animals must be raised on 100 percent organically grown feed from birth to slaughter;~~
 - ~~—(b) Breeder livestock must be fed 100 percent organically grown feed during the time that the slaughter animal is nursing if the slaughter animal is nursing during the 12 months before slaughter;~~
 - ~~—(c) The producer shall not administer synthetic internal parasiticides, hormones or antibiotics from birth to slaughter;~~
 - ~~—(d) Animals must have fresh air, daylight, shade and when available, access to pasture or range that is certified pursuant to this chapter; and~~
 - ~~—(e) Animals may be kept in a feedlot for up to 12 months before slaughter if the animals have access to fresh air, shade and daylight and are fed 100 percent organically grown feed.~~
- ~~—3. Meat produced from swine, lamb, sheep and goats must meet the following requirements:~~
 - ~~—(a) Animals must be raised on 100 percent organically grown feed from birth to slaughter;~~
 - ~~—(b) During the time that the slaughter animal is being nursed, the mother must be fed 100 percent organically grown feed;~~
 - ~~—(c) During the time that the slaughter animal is being nursed, the mother must not be administered hormones, antibiotics or synthetic internal parasiticides;~~
 - ~~—(d) Animals must not be administered synthetic internal parasiticides, hormones or antibiotics from birth to slaughter;~~
 - ~~—(e) Animals must have fresh air, shade, daylight and whenever possible, access to pasture or range that is certified pursuant to this chapter; and~~
 - ~~—(f) Animals may be kept in a feedlot for up to 90 days before slaughter if the animals have access to fresh air, shade and daylight and are fed 100 percent organic feed.~~
- ~~—4. Organic poultry products must meet the following criteria:~~
 - ~~—(a) Birds must be raised on 100 percent organically grown feed from one day old to slaughter;~~
 - ~~—(b) Birds must be provided with shade and dusting wallows, and laying birds must also be provided with nest boxes and perches;~~
 - ~~—(c) Synthetic internal parasiticides, hormones and antibiotics must not be administered to the birds from one day old to slaughter; and~~
 - ~~—(d) Birds must be raised uncaged in either:~~

~~—(1) A moveable pen management system that is moved on a daily basis and provides access to organic pasture and range; or~~

~~—(2) A living space that provides a minimum of 4 square feet of living space per bird, including both inside and outside areas, and access to the outside areas. Inside areas must provide a minimum of 1 1/2 square feet per bird and be sufficient to avoid stress such as cannibalism, nervousness and self-destructive behaviors such as feather picking, self-mutilation and limb harrowing. Outside areas must provide a minimum of 1 1/2 square feet per bird. These minimum living space requirements have been calculated for the size of an adult chicken with a mature body weight of 5 pounds. Requirements for other poultry animals must be calculated proportionately according to the size of the species.~~

~~—5.—Organic animal products produced from dairy animals must meet the following requirements:~~

~~—(a) Except as otherwise provided in subsection 8, dairy animals must be raised on 100 percent organic feed or pasture for at least 1 year before organic milk production begins;~~

~~—(b) Synthetic internal parasiticides and hormones must not be administered to dairy animals for the year immediately preceding organic milk production; and~~

~~—(c) Antibiotics must not be administered to dairy animals for the 90 days immediately preceding organic milk production.~~

~~—6.—Organic aquaculture stock and products must meet the following requirements:~~

~~—(a) Eggs, fingerlings and hatchlings may be purchased from any source.~~

~~—(b) Meat and eggs sold as organically produced must be maintained in accordance with designated 100 percent organic feed and health care standards as provided in this chapter from the time the stock is brought onto a farm or field unit certified as organic.~~

~~—7.—Fiber animal livestock may be purchased from any source. Fiber animal livestock must be raised pursuant to the provisions of this chapter from the time the livestock is brought onto a farm or field unit certified as organic. Fiber animal livestock must be fed 100 percent certified organically produced feeds and feed supplements for not less than the year immediately preceding the removal from the animal of fiber labeled as organically produced. Fiber animal livestock must not be used as breeder or slaughter livestock unless it meets the requirements for breeder or slaughter livestock produced pursuant to this chapter.~~

~~—8.—In situations of an organic feed shortage that results from emergency conditions such as weather conditions, road closures or crop failures, the organic livestock producer may feed nonorganic feed to livestock for a limited period if the organic feed shortage is temporary and unforeseeable because of emergency conditions beyond the control of the producer and:~~

~~—(a) The organic livestock producer makes every reasonable effort, and maintains a record of such efforts, to locate organically grown feed in the following order of preference:~~

~~—(1) Certified organic feed;~~

~~—(2) Noncertified organic feed;~~

~~—(3) Feed from farms under organic management for less than 3 years but more than 1 year;~~

~~—(4) Feed from farms under organic management for 1 year or less; and~~

~~—(5) Conventional feed;~~

~~—(b) The organic livestock producer notifies the department and submits the organic feed supplier record to the department at least 24 hours before using the nonorganic feed;~~

~~—(c) The department verifies the emergency conditions;~~

~~—(d) The department reviews the situation to determine a maximum period during which second-year transition to organic feed, first-year transition to organic feed or nonorganic feed may be used;~~

- ~~—(e) The livestock producer shall not represent egg and dairy products as organic animal products during the period those animals are fed nonorganic feed plus an extended time following that period which is equal to the period that nonorganic feed was fed to those animals; and~~
- ~~—(f) The livestock producer shall not represent meat products as organic animal products if produced during the period the animal was fed nonorganic feed plus an extended time of 90 days following the period during which the animal was fed nonorganic feed. Meat products produced during any such period must not be commingled with organic meat products.]~~

~~[NAC 587.915—Approved and prohibited additives for organic feed; prohibited practices in organic feeding. (NRS 587.830)~~

- ~~—1. The following list of feed additives are approved for adding to organic feed:~~
 - ~~—(a) Amino acids to fulfill nutritional requirements;~~
 - ~~—(b) Salt;~~
 - ~~—(c) Minerals;~~
 - ~~—(d) Vitamins;~~
 - ~~—(e) Nonorganic molasses;~~
 - ~~—(f) Mineral oil;~~
 - ~~—(g) Enzymes; and~~
 - ~~—(h) Fish meal and fish by products.~~
- ~~—2. The following additives are prohibited for adding to organic feed:~~
 - ~~—(a) Synthetic additives not included in subsection 1; and~~
 - ~~—(b) Animal by products, including blood meal and bone meal except for fish meal and fish by products.~~
- ~~—3. The following practices are prohibited in organic feeding:~~
 - ~~—(a) Refeeding of manure; and~~
 - ~~—(b) Feeding of plastic.]~~

~~[NAC 587.916—Living conditions for and treatment of animals. (NRS 587.830)~~

- ~~—1. An organic livestock producer shall provide the following living conditions for animals raised for organic meat, dairy and egg production:~~
 - ~~—(a) The animals must be provided with access to fresh air, daylight and shade; and~~
 - ~~—(b) Each animal must have enough room to get up, lie down, turn around, groom and stretch its limbs.~~
- ~~—2. An organic livestock producer shall not participate in or allow practices for animals produced under his control that are contrary to humane treatment, good sanitation practices and good animal health.]~~

~~[NAC 587.917—Management of diseases and pests; health of animals. (NRS 587.830)~~

- ~~—1. Each organic livestock producer shall have an ongoing organic disease and pest management program which includes an integrated approach to disease and pest management that stresses preventative control.~~
- ~~—2. The department may restrict producers from using the terms “organic” or “organically produced” if the producer does not have adequate organic disease and pest management programs.~~
- ~~—3. A proper herd health program must include strategies for disease prevention, parasite control and disease treatment.~~

- ~~—4.— Producers of organic animal products shall market only healthy animals and animal products produced from healthy animals and shall not deny necessary treatment to an animal for the purpose of enabling it or products made from it to be labeled or sold as organic.~~
- ~~—5.— Approved materials and practices for the management of diseases and pests are:~~
 - ~~—(a) Approved botanical pesticides for the control of external parasites and for the management of flies, only if labeled for such use;~~
 - ~~—(b) Natural materials used in homeopathic, naturopathic and herbal remedies;~~
 - ~~—(c) Tamed iodine, alcohol or hydrogen peroxide, or any combination thereof, as a disinfectant;~~
 - ~~—(d) Vaccinations against endemic disease;~~
 - ~~—(e) Sodium hypochlorite (bleach), for use on machinery and facilities; and~~
 - ~~—(f) Equipment for steam sterilization.]~~

~~[NAC 587.918— Identification of livestock; maintenance of records. (NRS 587.830)~~

- ~~—1.— All organic livestock except poultry must be ear-tagged, branded or individually marked in a manner that plainly indicates their organic status. Poultry may be identified by flock.~~
- ~~—2.— Each organic livestock producer shall maintain, for 2 years after the sale of an organic animal product, the following records, including information for the period beginning with the birth or purchase of the animal and ending with the sale of the organic animal products or slaughter of the organic livestock:~~
 - ~~—(a) A list of all materials for disease and pest management that have been administered to the animals, including dates administered, material type, dosages and sources;~~
 - ~~—(b) A list of all feed that was purchased by the producer for the animals, including the dates of purchase, types, quantities, sources and a copy of the organic certificates for the feed;~~
 - ~~—(c) A list which includes the weight of each animal at the time of slaughter and the weight of the animal products rendered from the animal that was slaughtered; and~~
 - ~~—(d) Sales records for all organic animal products sold, including dates, quantities and weights.~~
- ~~—3.— Receipts for livestock and materials must be kept to ensure a complete audit trail.~~
- ~~—4.— Inadequate recordkeeping may constitute cause for the department to prohibit labeling or marketing of animal products as “organic” or “organically produced.”]~~

[Handlers of Organic Products]

~~[NAC 587.919— Certification as handler; display of certificate; application and organic processing or handling plan. (NRS 561.105, 587.830)~~

- ~~—1.— Except as otherwise provided in subsection 5, a handler of organic agricultural products must be certified by the department or an organic certifying agent. A handler shall not handle any organic product until he has registered with the department and paid the appropriate fee.~~
- ~~—2.— A handler shall not use or add any prohibited material during the production, composition, processing, manufacturing, packaging, transporting or storage of an organic agricultural product.~~
- ~~—3.— Each handler shall conspicuously display his certificate issued by the department or an organic certifying agent to process or handle organic food or fiber.~~
- ~~—4.— A handler applying for certification or renewal of certification shall submit a completed application to the department with an organic processing or handling plan that includes:~~
 - ~~—(a) A description of physical facilities and management procedures to prevent commingling between nonorganic and organic food or fiber and to prevent contamination from prohibited materials used in the processing or handling of organic food or fiber;~~

~~—(b) A description of the processing or distribution operation, processing and handling procedures, and the types of organic food or fiber processed or distributed; and~~

~~—(c) A schematic flowchart indicating critical control points and showing the movement of organic food or fiber during processing or handling and all equipment, machinery and storage areas used including:~~

~~—(1) A description of the system of internal recordkeeping that documents the movement of each specified lot of organic food or fiber through each step of the processing or distribution operation;~~

~~—(2) Sanitizers, boiler chemicals and prohibited materials used in handling;~~

~~—(3) Transportation and storage; and~~

~~—(4) Pest control, including a description of the pest problems encountered in the processing or handling operation, pest monitoring techniques used and a description of all pest control methods and materials used.~~

~~—5. A person who operates as a common carrier:~~

~~—(a) May handle organic agricultural products for purposes relating to his operation as a common carrier without being certified; and~~

~~—(b) When handling organic agricultural products pursuant to paragraph (a) must handle such products in a manner such that there is no risk of contamination by prohibited materials or commingling with conventional product.~~

~~As used in this subsection, “common carrier” means any person who holds himself out to the public as willing to transport agricultural products by vehicle from place to place, either upon a fixed route or an on-call operation.]~~

~~[NAC 587.920— Prohibition of certain acts; labeling and content of processed products; maintenance of records. (NRS 561.105, 587.830)~~

~~—1. A handler shall not:~~

~~—(a) Represent as organic any food or fiber that is known to contain or has been in contact with prohibited materials or has been commingled during storage, handling, processing, packing and transportation;~~

~~—(b) Use any packaging that contains or has been in contact with prohibited materials;~~

~~—(c) Add any sulfites, nitrates or nitrites to a product; or~~

~~—(d) Use in or on certified products, water that does not meet all the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.~~

~~—2. Each ingredient labeled as organic in a processed product must be from a certified organic source. A processed product sold as organic or with organic ingredients may include:~~

~~—(a) Ingredients that are not agricultural products, such as salt, yeasts or other microbial cultures or fermentation systems which are approved under this chapter;~~

~~—(b) Natural preservatives, coloring agents or other additives, such as natural ascorbic acid or citric acid; and~~

~~—(c) Other ingredients or processing aids listed as “allowed” in the materials list published by the department.~~

~~—3. The following percentage of ingredients is required:~~

~~—(a) A processed product must not be labeled as “organic” on the principal display panel unless it contains at least 95 percent certified organically produced ingredients by weight, excluding water and salt from the calculation, and does not contain any prohibited ingredients or additives.~~

~~—(b) A processed product that contains at least 50 percent certified organic ingredients by weight, excluding water and salt from the calculation, may include the applicable certification on the principal display panel, but only for the limited purpose of identifying the organically produced ingredients.~~

~~—(c) A processed product that contains less than 50 percent certified organic ingredients by weight, excluding water and salt from the calculation, may state the applicable certification in the ingredient information panel.~~

~~—4. Each handler shall maintain auditable records for not less than 5 years including:~~

~~—(a) Records of all organic products and ingredients, including dates of purchases, sales, billings, receipts, invoices, and volumes of products purchased and sold; and~~

~~—(b) Proof of certification of all products or ingredients labeled as organic and a record of the applicable organic certifying agent.~~

~~—5. The department may deny or suspend the certification of a handler for intentionally falsifying or refusing to supply adequate records until the department is provided with adequate records.]~~

~~[NAC 587.921—Display of certification seals and certain other information on packaging or labels. (NRS 561.105, 587.830)~~

~~—1. Processed food or fiber products which contain at least 95 percent organically produced ingredients that are certified by the department, processed pursuant to this chapter and contain no prohibited ingredients may include the Nevada Department of Agriculture Organic Certification Seal on the principal display panel.~~

~~—2. Processed food or fiber products which contain organically produced ingredients that are certified by the department, but include additional ingredients, additives or processing aids, may use the Nevada Department of Agriculture Organic Certification Seal in an area on the packaging other than the principal display panel. Each certified organic ingredient and its total percentage by weight of the product must be listed in the information panel and be identified as “organic.”~~

~~—3. Processed food or fiber products that meet the requirements of this chapter and are additionally certified by a private organic certifying agent pursuant to this chapter, may include on the principal display or information panel pursuant to this chapter and the federal act:~~

~~—(a) The Nevada Department of Agriculture Organic Certification Seal;~~

~~—(b) The name of the applicable organic certifying agent;~~

~~—(c) A statement indicating that the product was “processed to Nevada Organic Standards”; or~~

~~—(d) Any combination of paragraphs (a), (b) and (c).~~

~~—4. The identity of the organic certifying agent must be listed by the manufacturer on the packaging or the label.~~

~~—5. The name and address of the producer or handler must be on the organic product label.~~

~~—6. The department, or an organic certifying agent, shall not certify drugs or drug ingredients under this chapter.~~

~~—7. A person shall not use a Nevada Department of Agriculture Organic Certification Seal in connection with, or represent as certified by the department or an organic certifying agent, any product or any ingredient of a product which is regulated as a drug or which has been determined by a state or federal agency of competent jurisdiction to be subject to regulation as a drug.~~

~~—8. A person shall not use a seal of the department or represent any product or ingredient as certified by the department or an organic certifying agent in an advertisement that makes medicinal claims, including, without limitation, a printed or broadcast advertisement, flier, point of purchase advertisement, signage or other printed advertisement.]~~

~~[Standards]~~

~~[NAC 587.922—Classification of materials as “allowed,” “allowed with restrictions” and “prohibited”; publication of list by department. (NRS 561.105, 587.830)~~

~~—1.— The director, in consultation with the advisory council for organic agricultural products, shall adopt a list of specific materials that are allowed, allowed with restrictions or prohibited for use in the production and handling of organic agricultural products in this state.~~

~~—2.— For the purposes of this chapter, materials for crop production, processing and handling are classified as follows:~~

~~—(a) Allowed, including materials allowed for production, processing or handling. The permission to use these materials applies statewide.~~

~~—(b) Allowed with restrictions, including materials that may be used upon a demonstrated need, if the use will be discontinued over time or upon a showing that no alternative materials are available. These materials may vary according to regional production practices, specific processing or handling needs.~~

~~—(c) Prohibited, including materials that must not be used for production, processing or handling. This prohibition applies statewide.~~

~~—3.— The department shall publish a materials list that categorizes materials as “allowed,” “allowed with restrictions” or “prohibited.”~~

~~—4.— Unless properly registered, pesticides requiring registration with the responsible state and federal agencies, including the United States Environmental Protection Agency and the department, must not be used.~~

~~—5.— Manufacturers of materials, other than those listed by name in the materials list published by the department, for production, processing or handling of certified food or fiber may submit information on the ingredients, manufacturing processes and other supporting documents, as required by the department for categorization as “allowed,” “allowed with restrictions” or “prohibited.” If a manufacturer submits information for review, the information provided must include:~~

~~—(a) Registration information or a letter of exemption from the applicable registration agent, such as the United States Environmental Protection Agency or the department, and a current approved label;~~

~~—(b) A description of the purpose of the product;~~

~~—(c) Directions for application;~~

~~—(d) Each active ingredient contained in the material, its source and percentage by weight of the material;~~

~~—(e) Each inert ingredient, its source, percentage by weight of the material and classification of tolerance by the United States Environmental Protection Agency pursuant to subpart D of section 180.1001 of the Code of Federal Regulations;~~

~~—(f) A description of the manufacturing processes, both physical and chemical;~~

~~—(g) A description of toxicity, hazards and classification, and material safety data sheets; and~~

~~—(h) Any additional documentation required by the department.~~

~~—6.— Materials contained on the prohibited materials list published by the department:~~

~~—(a) Must not be used for production and handling of organic food or fiber.~~

~~—(b) Must be handled and stored separately from materials listed as “allowed” or “allowed with restrictions” for organic production or handling.]~~

~~[NAC 587.923— Prohibited materials; noxious weeds. (NRS 561.105, 587.830)~~

- ~~—1.— In cases where organic agricultural products that are being grown, raised or produced pursuant to the provisions of this chapter, including feed crops and pasturage for livestock, are exposed to the drift or misapplication of a prohibited material, the certified producer shall notify the department within 48 hours after the drift or misapplication occurred.~~
- ~~—2.— If the residue level of the prohibited material exceeds the residue level allowed under subsection 4, the agricultural product must not be sold as “organically produced.”~~
- ~~—3.— Subsequent agricultural products grown in a field exposed to drift or misapplication, including feed crops and pasturage for livestock, may not be sold as “organically produced” unless approved by the department after additional residue testing is conducted.~~
- ~~—4.— An agricultural product that is being grown, raised or produced pursuant to the provisions of this chapter and contains residues of material not on the allowed materials list published by the department in excess of 5 percent of the tolerance level established by the United States Environmental Protection Agency, or where there is no such tolerance level, 5 percent of the action level established by the United States Food and Drug Administration, may not be labeled, sold or represented as organic.~~
- ~~—5.— A producer shall comply with all emergency spray and pest management programs required or authorized by the department. Whenever possible, the department shall specify pest management practices allowed pursuant to this chapter. Any such application must be documented in the material-use reports of the producer.~~
- ~~—6.— A producer may take appropriate action against noxious weeds pursuant to the provisions of chapter 555 of NRS with spot applications of prohibited materials in noncrop areas and buffer zones. Any such application must be documented in the material use report of the producer.]~~

~~[NAC 587.924— Testing required by department. (NRS 561.105, 587.830)~~

- ~~—1.— All laboratory tests and analysis procedures and methods used for verification purposes for the purposes of this chapter must be recognized and accepted or specified by the department. The cost of all tests required pursuant to subsections 2 to 6, inclusive, must be borne by the department.~~
- ~~—2.— Periodically, samples may be composited by the department for residue testing of agricultural products that have been produced on certified organic farms and handled through certified organic handling operations to determine whether such products contain specified pesticides, other prohibited material or natural toxins.~~
- ~~—3.— When determined necessary by the department, an initial pesticide residue test of soil, water and crop samples for each new applicant for certification and for each applicant for renewal of certification may be required.~~
- ~~—4.— The department may require testing of an organic agricultural product when a reasonable cause exists to suspect that it may have been contaminated with a prohibited material.~~
- ~~—5.— The department may require testing of farms, fields, production, processing or handling equipment which the department determines may be in contact with organic food or fiber that may be contaminated with a prohibited material.~~
- ~~—6.— The department may require testing of soil samples when it suspects that prohibited or restricted materials are present.]~~

~~[Enforcement; Violations]~~

~~[NAC 587.925—Maintenance of records by department; audits; confidentiality. (NRS 587.830)~~

~~—1.—Except as otherwise provided in subsection 2, the department shall maintain documentation relating to certification for not less than 10 years after the date on which the record is made or received by the department.~~

~~—2.—The department shall maintain copies of notices sent to persons certified by or registered with the department, minutes of meetings, correspondence and administrative memoranda as the department determines necessary.~~

~~—3.—The department may conduct or provide for audits of all records to verify that certified products meet organic standards certified under this chapter or by an organic certifying agent. The audits must include, where appropriate:~~

~~—(a) A company inventory audit which lists the percent of accuracy in labeling, the amount bought and sold per product, the producer or destination and the number of vendors and amount of product per vendor; or~~

~~—(b) A farm audit which lists the amounts sold per product, date and destination, and the area and location planted of each product with dates of harvest.~~

~~—4.—The department shall keep confidential any business-related information obtained pursuant to this chapter concerning an entity certified under this chapter or an applicant for such certification, and such information must not be made available for public inspection and copying.~~

~~—5.—Applications for certification under this chapter and laboratory analyses pertaining to that certification must be made available for public inspection and copying during the normal hours of operation of the building in which the records are stored.}]~~

~~[NAC 587.926—Grounds for denial, suspension or revocation of certification or registration; stop order; request for hearing. (NRS 561.105, 587.830)~~

~~—1.—The department may deny, suspend or revoke the certification of a producer or handler pursuant to this chapter if the department determines that the person:~~

~~—(a) Submitted an application or verification documents that contain insufficient information upon which to make a determination;~~

~~—(b) Provided verification documents that demonstrate noncompliance with any provision of this chapter;~~

~~—(c) Made a false representation that was material to an initial or renewal application for certification;~~

~~—(d) Violated or refused to comply with the provisions of this chapter, chapter 587 of NRS or an order issued by the department;~~

~~—(e) Has previously had a certification or registration revoked under this chapter;~~

~~—(f) Failed to provide records as required by this chapter; or~~

~~—(g) Refused to allow an inspection or audit by the department.~~

~~—2.—The department may issue a written order to stop the sale of an item of food, feed or fiber by a person in control of the item if the organic agricultural product is:~~

~~—(a) Being sold in violation of this chapter or the federal act; or~~

~~—(b) Labeled, advertised or otherwise represented as organic in violation of this chapter or the federal act.~~

~~—3.—An item for which an order is written pursuant to subsection 2 must not be sold until the department determines that the sale, labeling or advertising of the item is in compliance with this chapter and the federal act.~~

~~—4.— A producer or handler who has received a stop order or notice that his certification may be suspended or revoked may apply for a hearing pursuant to subsection 2 of NRS 561.295.]~~

~~[NAC 587.927—Violations; failure to comply; civil fine; suspension of certification; request for hearing. (NRS 587.830)~~

~~—1.— A person commits an offense if the person:~~

~~—(a) Violates a provision of this chapter; or~~

~~—(b) Fails to comply with a notice, order or rule of the department adopted pursuant to this chapter or chapter 587 of NRS.~~

~~—2.— In addition to any other penalty, the director may assess a civil fine against a person who commits an offense, including, without limitation:~~

~~—(a) Selling or handling organic agricultural products without a valid certification:~~

~~—(1) Uncertified with no prior certification:~~

~~— First violation: \$50 to \$200~~

~~— Second violation: 250 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(2) Expired certification:~~

~~— First violation: 50 to 200~~

~~— Second violation: 300 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(3) Suspended certification:~~

~~— First violation: 200~~

~~— Second violation: 500 to 1500~~

~~— Subsequent violation: 1500 to 3000~~

~~—(b) Misrepresentation of food, feed or fiber as organic:~~

~~—(1) Marketing or advertising nonorganic as organic:~~

~~— First violation: 200~~

~~— Second violation: 300 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(2) Commingling organic with nonorganic:~~

~~— First violation: 50 to 200~~

~~— Second violation: 250 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(3) Contamination from prohibited materials:~~

~~— First violation: \$125 to \$200~~

~~— Second violation: 250 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(c) Miscellaneous offenses:~~

~~—(1) Mislabeling of processed or packaged organic products:~~

~~— First violation: 125 to 200~~

~~— Second violation: 250 to 1500~~

~~— Subsequent violation: 500 to 3000~~

~~—(2) Violation of a stop sale order:~~

~~— First violation: 200~~

~~— Second violation: 1500~~

~~— Subsequent violation: 500 to 3000~~

- ~~(3) Refusal to allow an inspection or audit:~~
- | | |
|--|------------------------|
| First violation: | 200 |
| Second violation: | 1500 |
| Subsequent violation: | 500 to 3000 |
- ~~3. In addition to the civil fines set forth in subsection 2, for subsequent violations the department may suspend the certification of the person who committed the offense for a period prescribed by the director.~~
- ~~4. A person who is cited for a violation of this chapter or chapter 587 of NRS or whose certification has been revoked may apply for a hearing pursuant to subsection 2 of NRS 561.295.]~~

Advisory Council for Organic Agricultural Products

NAC 587.928 Compensation of members. (NRS 587.830)

1. Except as otherwise provided in subsection 2, each member of the advisory council for organic agricultural products is entitled to receive compensation at the rate of \$10 per hour necessarily spent on the business of the council, including time spent traveling.
2. The total compensation paid pursuant to subsection 1 must not exceed \$80 per day.

NEVADA DEPARTMENT OF AGRICULTURE
SMALL BUSINESS IMPACT DISCLOSURE PROCESS
PURSUANT TO 233B Nevada Administrative Procedures Act@
(Replaces original Statement posted 4/3/2002)

The purpose of this Small Business Impact Form is to provide a frame work pursuant to NRS 233B.0608 to determine where a small business impact statement is required for submittal of a proposed regulation before the Nevada Department of Agriculture. If questions one (1) and two (2) are answered No, then a small business impact statement is not required. If question one (1) or two (2) is answered with a YES, then a small business impact statement is required prior to conducting a public workshops by the Department. (This form must be submitted with the proposed regulation when submitted for drafting by LCB and adoption by the Nevada State Board of Agriculture.)

Proposed regulation:

Part 1

1. Does this proposed regulation impose a direct and significant economic burden upon a small business ? No

2. Does this proposed regulation restrict the formation, operation or expansion of a small business ? No

Note: Small Business is defined as a business conducted for profit which employs fewer than 150 full-time or part-time employees@ (NRS 233B.0382).

3. If **YES** to either of questions 1& 2, the following action must be taken:

- a. Was a small business impact statement prepared and was it available at the public workshop ?
- b. Attach the small business impact statement (part 2) as part of this form upon submission for drafting by LCB and adoption by the Nevada Board of Agriculture.

1. Describe the manner in which comments were solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

2. The estimated economic effect of the proposed regulation on small business:

- a. Both adverse and beneficial effects
- b. Both direct and indirect effects

3. The description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses.

- a. Simplification of the proposed regulation.
 - b. Establishment of different standards of compliance for a small business.
 - c. Modification of fees or other monetary interests that a small business is authorized to pay at a lower fee.
4. The estimated cost to the agency for enforcement of the proposed regulation.
5. If this regulation provides for 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.
6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards relating to the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.