

Chapter 576 of NAC

LCB File No. T019-04

PROPOSED TEMPORARY REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE

Request to Adopt Regulation

(Further amended 11/01/2004 after public comment)

NAC 576.300 through 576.440

CERTIFIED PRODUCER'S CERTIFICATE

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

NAC 576.300 Definitions. (NRS 561.301, 576.128) As used in NAC 576.300 to 576.440, inclusive, unless the context otherwise requires, the words and terms defined in NAC 576.310 and 576.320 have the meanings ascribed to them in those sections.

NAC 576.310 “Agricultural product of the soil” defined. (NRS 561.301, 576.128)“Agricultural product of the soil” means a crop grown in soil or any other medium.

NAC 576.320 “Certified producer’s certificate” defined. (NRS 561.301, 576.128)“Certified producer’s certificate” means a written document issued by the department pursuant to NAC 576.330, 576.340 and 576.350 which indicates that the holder of the certificate has obtained certification that he is ~~[an]~~ *the* actual producer of an agricultural product of the soil *listed on the certificate*.

NAC 576.330 Application: Contents; submission, fee. (NRS 561.301, 576.128)

1. To obtain a certified producer’s certificate, a person must submit to the department an application, *for each non-contiguous production site*, on a form prescribed by the department.

2. The application must include, without limitation:

(a) *The name, mailing address, and telephone number of the applicant;*

(b) *The address of the physical location of the property on which the agricultural product of the soil will be produced;*

~~[(a)]~~ (c) A list of any agricultural product of the soil that the applicant ~~[anticipates that he]~~ will grow *and offer for sale* during the 12 months for which the certificate is valid;

(d) *The estimated yield of each agricultural product of the soil shown on the application;*

(e) *The harvest season of each agricultural product of the soil shown on the application and if crops are to be stored or processed for sale at a later date, the length of time the product will be stored;*

(f) *The total area under cultivation listed in acres or square feet as applicable;*

(g) If any agricultural products of the soil are in storage at the time of the application, the location of the storage facility and the amount in storage of each product;

~~{(b)}~~ *(h)* A detailed map that indicates the location of each property at which the agricultural product of the soil listed pursuant to paragraph (a) will be grown; and

~~{(e)}~~ *(i)* The fee for the ~~[inspection of the property]~~ *application* required pursuant to ~~[NAC 576.340.]~~ *subsection 5.*

3. A person may obtain an application for a certified producer's certificate by submitting a request to the State Department of Agriculture, 350 Capitol Hill Avenue, Reno, Nevada 89502, or by calling the department at (775) 688-1180.

4. An application must be submitted to the department at least 30 days before the harvest of an agricultural product of the soil that is listed on the application. *The 30 day requirement may be waived at the discretion of the department.*

5. The department will charge a non-refundable fee of \$20.00 for the application.

NAC 576.340 Approval of application: Inspection of property; ~~{fee}~~; waiver. (NRS 561.301, 576.128)

1. Except as otherwise provided in subsection ~~{2}~~3, before approving an application for a certified producer's certificate, *or an amended certificate*, the department, or an authorized representative of the department, will inspect each property that is indicated on the application to verify the production of each agricultural product of the soil that is listed on the application or the existence in storage of each agricultural product of the soil that is listed on the application which has been harvested, or both. ~~[The department will charge a nonrefundable fee of \$20 for such an inspection, regardless of the number of properties indicated on the application].~~

2. If only organic agricultural products of the soil certified by the department are listed on the application, the department will waive the inspection and related fee required pursuant to this section.

3. For applicants who are renewing an application previously issued by the department and to which no substantial changes have occurred from the previously issued certificate, the department may waive the inspection required in subsection 1.

NAC 576.350 Issuance; ~~{contents}~~ period of validity; renewal; additional agricultural products of soil. (NRS 561.301, 576.128)

1. Upon approval of an application, the department will issue a certified producer's certificate to the applicant.

~~{2. A certified producer's certificate must list each agricultural product of the soil that is produced by the holder of the certificate.}~~

~~{3.} 2.~~ A certified producer's certificate is valid for 12 months after the date on which the ~~[application]~~ *certificate* is ~~[approved]~~ *issued*. ~~[A holder of a certified producer's certificate may renew the certificate by submitting the form for renewal furnished by the department within 30 days before his certificate expires.]~~

~~{4.} 3.~~ If the holder of a certified producer's certificate wishes to have an additional agricultural product of the soil listed on his certificate he must ~~[apply to the department, in writing,]~~ *submit an application form for each non-contiguous production site to the department* at least 30 days before the harvest of the additional agricultural product of the soil. *The 30 day requirement may be waived at the discretion of the department.* The application must include, without limitation:

(a) The information required under NAC 576.330 subsection 2; and

~~[(a) An identification of the additional agricultural product of the soil that will be grown; and
—(b) A detailed map that indicates the location of each property at which the additional agricultural product of the soil will be grown.]~~

(b) A nonrefundable fee of \$20 for the application.

(c) Upon approval of the application, the department will issue an amended certificate listing the additional crops. The expiration date will remain the same as for the original certificate.

~~[NAC 576.360 Annual inspection of property; fee; waiver. (NRS 561.301, 576.128)~~

~~—1. Except as otherwise provided in subsection 2, the department, or an authorized representative of the department, will, at least annually, inspect each property indicated on the application of a holder of a certified producer's certificate to verify the production of each agricultural product of the soil that is listed on the certificate or the existence in storage of each agricultural product of the soil that is listed on the certificate which has been harvested, or both. The department will charge a nonrefundable fee of \$20 for such an inspection, regardless of the number of properties indicated on the application.~~

~~—2. If only organic agricultural products of the soil are listed on the certificate, the department will waive the inspection and related fee required pursuant to this section.]~~

~~[NAC 576.370 Recognition of certificates issued by other entities. (NRS 561.301, 576.128) The department will recognize a certified producer's certificate, or the equivalent thereof, that is issued by a governmental agency or private organization in another state if:~~

~~—1. The procedures used by the agency or organization are substantially similar to the procedures set forth in NAC 576.300 to 576.440, inclusive;~~

~~—2. The information that appears on the certificate is essentially the same as the information that appears on a certified producer's certificate issued by the department; and~~

~~—3. The holder of the certificate prominently displays the certificate at each location at which the holder of the certificate is selling an agricultural product of the soil that is listed on the certificate.]~~

NAC 576.380 Maintenance of list of certificate holders. (NRS 561.301, 576.128) The department will maintain a list of each person to whom the department has issued a certified producer's certificate.

~~[NAC 576.390 Sale of agricultural products of soil at farmers' market. (NRS 561.301, 576.128)~~

~~—1. A holder of a certified producer's certificate may sell at a farmers' market agricultural products of the soil for which he and no more than two other persons hold certified producer's certificates. The products must be displayed separately from other products which are not agricultural products of the soil and which are available for sale.~~

~~—2. The certified producer's certificate on which an agricultural product of the soil that is available for sale at a farmers' market is listed must be displayed prominently at each location at which the product is available for sale.~~

~~—3. The department, or an authorized representative of the department, will, at least once every 6 months, inspect each farmers' market at which a holder of a certified producer's certificate~~

~~sells an agricultural product of the soil to verify compliance with NAC 576.300 to 576.440, inclusive.~~

~~—4. “Farmers’ market” has the meaning ascribed to it in NRS 244.336.]~~

NAC 576.400 Representation of agricultural product of soil as certified. (NRS 561.301, 576.128) A person shall not claim or imply in the advertising, selling or labeling of an agricultural product of the soil or otherwise represent that the product is “certified” unless the department has issued to that person a certified producer’s certificate for that product. *If certification is claimed or implied, the certificate must be prominently displayed at the point of sale.*

NAC 576.410 Order to stop sale of agricultural product of soil that is misrepresented. (NRS 561.295, 561.301, 576.128) The director may issue a written order to stop the sale of an agricultural product of the soil if that product is advertised, sold, labeled or otherwise represented as certified in violation of NAC 576.300 to 576.440, inclusive. A person shall not sell an agricultural product of the soil for which the director has issued a written order to stop the sale pursuant to this section until the department determines that the advertising, selling, labeling or other representation of the product complies with NAC 576.300 to 576.440, inclusive.

NAC 576.420 Suspension or revocation of certificate. (NRS 561.295, 561.301, 576.128) The department may suspend or revoke a certified producer’s certificate issued to a person pursuant to NAC 576.300 to 576.440, inclusive, if the department determines that the person violated the provisions of NAC 576.300 to 576.440, inclusive.

~~[NAC 576.430 Civil penalty. (NRS 561.301, 576.128, 576.150) In addition to any other penalty, the director may, pursuant to NRS 576.150, impose a civil penalty of \$100 against a person for each:~~

~~—1. Violation of NAC 576.300 to 576.440, inclusive; or~~

~~—2. Failure to comply with a notice, order or rule of the department adopted pursuant to NAC 576.300 to 576.440, inclusive.]~~

NAC 576.440 Request for hearing. (NRS 561.295, 561.301, 576.128) A person:

1. Who is issued a written order to stop the sale of an agricultural product of the soil pursuant to NAC 576.410;

2. Whose certified producer’s certificate has been suspended or revoked pursuant to NAC 576.420 ~~;~~ or

~~—3. Against whom the director has imposed a civil penalty pursuant to NAC 576.430],~~ may request a hearing pursuant to subsection 2 of NRS 561.295.