

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

LCB File No. R125-05

September 20, 2005

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

AUTHORITY: §§1-16, NRS 576.128.

A REGULATION relating to agriculture; revises provisions relating to a certified producer's certificate for the production of agricultural products of the soil; and providing other matters properly relating thereto.

Section 1. Chapter 576 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *An application for a certified producer's certificate, an application to amend a certified producer's certificate and an application to renew a certified producer's certificate may be obtained, free of charge, from the State Department of Agriculture by mail at 350 Capitol Hill Avenue, Reno, Nevada 89502, or by telephone at (775) 688-1180.*

Sec. 3. 1. *If the holder of a certified producer's certificate wishes to add an agricultural product of the soil to those listed on his certificate, he must submit to the Department, on a form prescribed by the Department, a separate application to amend the certificate for each plot of land on which an additional agricultural product of the soil will be grown. For the purposes of this section, a separate application is required for each plot of land on which an additional agricultural product of the soil will be grown if the plot of land is not contiguous to any other plot of land on which an agricultural product of the soil is grown that is listed on the certified producer's certificate.*

2. *Except as otherwise provided in this subsection, if a holder of a certified producer's certificate wishes to amend the certificate pursuant to subsection 1, the holder must submit an application to amend the certificate pursuant to subsection 1, the holder must submit an application to amend the certificate at least 30 days before the harvest of any additional agricultural product of the soil. The Department may, in its discretion, waive the requirements set forth in this subsection.*

3. *The application must include, without limitation:*

(a) *The information required pursuant to subsection 2 of NAC 576.330;*

(b) *An identification of each additional agricultural product of the soil that will be grown; and*

(c) *A detailed map that indicates the location of the plot of land on which any additional agricultural product of the soil will be grown.*

4. *The Department will not inspect the plot of land that is indicated on the application to amend a certificate to verify the production of each additional agricultural product of the soil, unless any agricultural product of the soil included on the application is substantially different from the agricultural products of the soil listed on the original certificate.*

5. *If the Department approves an application to amend a certificate, the Department will issue an amended certificate which lists the additional agricultural products of the soil that will be grown. The amended certificate expires on the expiration date of the original certificate.*

Sec. 4. 1. *The holder of a certified producer's certificate may renew his certificate every 12 months by submitting to the Department, on a form prescribed by the Department, an application to renew the certificate.*

2. *Except as otherwise provided in this subsection, if a holder of a certified producer's certificate wishes to renew the certificate, the holder must submit the application for renewal at least 30 days before the certified producer's certificate expires. The Department may, in its discretion, waive the requirements set forth in this subsection.*

3. *The Department will not inspect the plot of land that is indicated on the application to renew a certificate to verify the production of each agricultural product of the soil, unless:*

(a) *The designation of the plot of land on which an agricultural product is grown that is listed on the renewal application is different from the plot of land designated on the original certificate; or*

(b) *Any agricultural products of the soil included on the renewal application are substantially different from the agricultural products of the soil listed on the original certificate.*

4. *The application for renewal must include:*

(a) *The information required pursuant to subsection 2 of NAC 576.330; and*

(b) *The fee for renewal set forth in section 5 of this regulation.*

5. *Upon approval of the application for renewal, the Department will issue a renewed certified producer's certificate to the applicant. A renewed certificate is valid for 12 months after the date on which the renewal certificate is issued.*

Sec. 5. *The Department will charge and collect the following nonrefundable fees:*

1. *For an application for a certificate and the inspection required pursuant to NAC 576.340\$50.00*

2. *For the renewal of a certificate without an inspection\$30.00*

3. *For the inspection of any plot of land concerning an agricultural product of the soil for which a person seeks a certified producer’s certificate which is conducted after the initial inspection has been completed and for any other additional inspections:*

(a) *For each hour of inspection, calculated from the assigned office of the inspector, per hour\$30.00*

(b) *For mileage, per mile\$0.40*

Sec. 6. *A person who produces only organic agricultural products of the soil is exempt from the requirements set forth in NAC 576.300 to 576.440, inclusive, and sections 2 to 5, inclusive, of this regulation.*

Sec. 7. NAC 576.300 is hereby amended to read as follows:

576.300 As used in NAC 576.300 to 576.440, inclusive, *and sections 2 to 6, 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.

Sec. 8. NAC 576.320 is hereby amended to read as follows:

576.320 “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]~~ *each* agricultural product of the soil ~~[.]~~ *which is listed on the certificate.*

Sec. 9. NAC 576.330 is hereby amended to read as follows:

576.330 1. To obtain a certified producer’s certificate, a person must submit to the Department, ~~[an application]~~ on a form prescribed by the Department ~~[.]~~, *a separate application for each plot of land on which an agricultural product of the soil will be grown. For the purposes of this section, a separate application is required for each plot of land on which an*

agricultural product of the soil will be grown if the plot of land is not contiguous to any other plot of land on which an agricultural product of the soil will be grown.

2. The application must include, without limitation:

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

(b) *The physical address of the plot of land on which each agricultural product of the soil will be grown;*

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

~~[(b)]~~ (d) *The estimated yield of each agricultural product of the soil listed on the application;*

(e) *The harvest season of each agricultural product of the soil listed on the application;*

(f) *If an agricultural product of the soil is to be stored, the length of time the product will be stored;*

(g) *The total area of the plot of land which is under cultivation for each agricultural product of the soil listed on the application, designated in terms of acres or square feet, as applicable;*

(h) *If any agricultural product of the soil produced by the applicant is in storage at the time of application, the physical address at which the product is being stored and the amount of the product that is being stored at that location at the time of application;*

(i) A detailed map that indicates the location of ~~[each property at which]~~ the *plot of land on which any* agricultural product of the soil listed pursuant to paragraph ~~[(a)]~~ (c) will be grown;
and

~~[(e)]~~ (j) The fee *set forth in section 5 of this regulation* for the *application and the inspection* ~~[of the property]~~ required pursuant to NAC 576.340.

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]~~ *Except as otherwise provided in this subsection, 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 Department may, in its discretion, waive the requirements set forth in this subsection.*

Sec. 10. NAC 576.340 is hereby amended to read as follows:

576.340 ~~[1.—Except as otherwise provided in subsection 2, before]~~ *Before* approving an application for ~~[a]~~ *an initial* certified producer's certificate, the Department, or an authorized representative of the Department, will inspect ~~[each property]~~ *the plot of land* 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 are listed on the application, the Department will waive the inspection and related fee required pursuant to this section.]~~

Sec. 11. NAC 576.350 is hereby amended to read as follows:

576.350 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. A certified producer's certificate is valid for 12 months after the date on which the ~~application is approved. 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. 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, at least 30 days before the harvest of the additional agricultural product of the soil. The application must include, without limitation:~~

~~(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.] certificate is issued.~~

4. The holder of a certificate may apply to the Department to:

(a) Amend his certificate pursuant to section 3 of this regulation; and

(b) Renew his certificate pursuant to section 4 of this regulation.

Sec. 12. NAC 576.400 is hereby amended to read as follows:

576.400 A person shall not claim or imply in the advertising, selling or labeling of an agricultural product of the soil or otherwise represent that *he is* the ~~[product is "certified"]~~ *producer of the product* unless the Department has issued to that person a certified producer's certificate for that product. *If a person claims or implies that he is the producer of an agricultural product of the soil, the certificate must be prominently displayed at any location at which the person offers the product for sale.*

Sec. 13. NAC 576.410 is hereby amended to read as follows:

576.410 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 ~~[]~~, *and sections 2 to 6, inclusive, of this regulation.* 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 ~~[]~~, *and sections 2 to 6, inclusive, of this regulation.*

Sec. 14. NAC 576.420 is hereby amended to read as follows:

576.420 The Department may suspend or revoke a certified producer's certificate issued to a person pursuant to NAC 576.300 to 576.440, inclusive, *and sections 2 to 6, inclusive, of this regulation*, if the Department determines that the person violated the provisions of NAC 576.300 to 576.440, inclusive ~~[]~~, *and sections 2 to 6, inclusive, of this regulation.*

Sec. 15. NAC 576.440 is hereby amended to read as follows:

576.440 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; *or*
2. Whose certified producer's certificate has been suspended or revoked pursuant to NAC 576.420, ~~[]~~

~~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.

Sec. 16. NAC 576.360, 576.370, 576.390 and 576.430 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 576.360 Annual inspection of property; fee; waiver.

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. 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 576.390 Sale of agricultural products of soil at farmers' market.

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 576.430 Civil penalty. 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.