

**LCB File No. R215-05**

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

Purpose-To adjust the fees for licensing Livestock and Farm Products Dealers, Brokers,  
Commission Merchants, Buyers and Agents.

Authority-NRS 576.050

Material in   is omitted, material in *italics* is added

**CHAPTER 576--LIVESTOCK AND FARM PRODUCTS: DEALERS, BROKERS,  
COMMISSION MERCHANTS, CASH BUYERS AND AGENTS; ALTERNATIVE  
LIVESTOCK**

**GENERAL PROVISIONS**

**NAC 576.005 Definitions.** (NRS 561.301, 576.128) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 576.015, 576.020 and 576.030 have the meanings ascribed to them in those sections.

**NAC 576.015 “Board” defined.** (NRS 561.301, 576.128) “Board” means the state board of agriculture.

**NAC 576.020 “Department” defined.** (NRS 561.301, 576.128) “Department” means the state department of agriculture.

**NAC 576.030 “Director” defined.** (NRS 561.301, 576.128) “Director” means the director of the department.

**DEALERS, BROKERS AND COMMISSION MERCHANTS**

**NAC 576.040 Amount of required bond.**

1. The amount of bond, security or deposit required of a person licensed to act as a dealer, broker or commission merchant is based on the annual volume of his purchases, as follows:

(a) For a buyer of farm produce:

Annual Volume of Purchase	Amount of Bond
Under \$200,000 .....	\$10,000
From \$200,000 to \$600,000 .....	12,000
Over \$600,000 .....	15,000

(b) For a buyer of livestock:

Annual Volume of Purchase	Amount of Bond
\$1 - \$650,000 .....	\$5,000
650,001 - 730,000 .....	6,000
730,001 - 1,040,000 .....	8,000
1,040,001 - 1,300,000 .....	10,000
1,300,001 - 1,560,000 .....	12,000
1,560,001 - 1,820,000 .....	14,000
1,820,001 - 2,080,000 .....	16,000
2,080,001 - 2,340,000 .....	18,000
2,340,001 - 2,600,000 .....	20,000
2,600,001 - 2,860,000 .....	22,000
2,860,001 - 3,120,000 .....	24,000
3,120,001 - 3,380,000 .....	26,000
3,380,001 - 3,900,000 .....	30,000
3,900,001 - 4,450,000 .....	35,000
4,450,001 - 5,200,000 .....	40,000
5,200,001 - 6,500,000 .....	50,000
6,500,001 - 13,000,000 .....	55,000
13,000,001 - 19,500,000 .....	60,000
19,500,001 - 26,000,000 .....	65,000
26,000,001 - 32,500,000 .....	70,000
32,500,001 - 39,000,000 .....	75,000
39,000,001 - 45,500,000 .....	80,000
45,500,001 - 52,000,000 .....	85,000
52,000,001 - 53,500,000 .....	90,000
53,500,001 - 65,000,000 .....	95,000
65,000,001 - 71,500,000 .....	100,000

2. The bond, security or deposit of any licensee whose license was issued before January 9, 1981, may be continued in force with the lower amount previously established, but the amount required by this section must be provided upon renewal of the license.

***NAC 576.050 Annual License Fee.***

- 1. Each applicant for a license as a broker, dealer, or commission merchant shall pay to the department an annual license fee of \$100.***
- 2. Each applicant for a license as an agent shall pay to the department an annual license fee of \$25.***

## ALTERNATIVE LIVESTOCK

**NAC 576.100 Definitions.** As used in NAC 576.100 to 576.260, inclusive, unless the context otherwise requires, the words and terms defined in NAC 576.110 to 576.190, inclusive, have the meanings ascribed to them in those sections.

**NAC 576.110 “Alternative livestock” defined.** “Alternative livestock” has the meaning ascribed to it in NRS 501.003.

**NAC 576.140 “Entry number” defined.** “Entry number” means a number issued by the department to identify an animal before the entry of the animal into this state is allowed.

**NAC 576.150 “Health certificate” defined.** “Health certificate” means a certificate concerning the health of an animal which is issued by a veterinarian.

**NAC 576.160 “Identification device” defined.** “Identification device” means:

1. A tag for the identification of an animal which is:
  - (a) Attached to the ear of the animal; and
  - (b) Approved by the United States Department of Agriculture; or
2. Any other device or method for the identification of an animal which is approved by the department.

**NAC 576.170 “Official” defined.** “Official” means approved by the department or the United States Department of Agriculture.

**NAC 576.180 “Permit” defined.** “Permit” means a permit issued pursuant to NRS 576.129, for the importation, possession and propagation of alternative livestock.

**NAC 576.190 “Veterinarian” defined.** “Veterinarian” means a licensed veterinarian who is accredited by the Federal Government or a health authority of the state or Federal Government.

**NAC 576.200 Prerequisites to importation.** (NRS 576.129) A person shall not import any alternative livestock into this state unless:

1. He holds a permit for those alternative livestock, which describes their destination in this state.
2. Each animal is identified by an identification device and entry number.
3. He holds a health certificate for each animal, which identifies the animal by its identification device and entry number, and which contains:
  - (a) The dates and results of the tests required by this section;
  - (b) The certifications required by this section; and
  - (c) Any other information required by the department.
4. Each animal is certified by a veterinarian as having originated from a herd that, for the 12 months before the entry of the animal into this state:
  - (a) Has been free from tuberculosis and brucellosis; and
  - (b) Is not known to have been exposed to infection by *Mycobacterium johnes* or *Parelaphostrongylus tenuis*.

5. Each animal which is 6 months of age or older is certified by a veterinarian as having reacted negatively, within 30 days before its entry into this state, to:

- (a) Two official tests for brucellosis, including a complement fixation test; and
- (b) An official single cervical test for tuberculosis.

6. If the alternative livestock are Rocky Mountain elk (*Cervus elaphus nelsoni*), each animal is certified not to be a hybrid with any other cervid species or subspecies by a laboratory for genetic testing which is recognized by the administrator of the division of animal industry of the department. To issue the certification, the laboratory must use the most recent and scientifically accepted genetic tests available.

7. Except as otherwise provided in this subsection, if the alternative livestock are Rocky Mountain elk (*Cervus elaphus nelsoni*), a veterinarian certifies that each animal originates from a herd which is participating in an official program for monitoring chronic wasting disease and that chronic wasting disease has not been diagnosed in that herd for the 5 years immediately preceding the date the alternative livestock are imported into this state. The administrator of the division of animal industry of the department may waive the requirements of this subsection if an official ante mortem test for chronic wasting disease is available on or before the date the alternative livestock are imported into this state and each animal tests negative for chronic wasting disease using that test.

**NAC 576.210 Permits: Application; prerequisites to issuance; expiration; fees.**

1. An application for a permit must be obtained from the State Department of Agriculture, P.O. Box 11100, Reno, Nevada 89510.

2. A permit will be issued to each person:

(a) Who submits to the department:

- (1) A completed application;
- (2) An application fee of \$200; and
- (3) Any fees imposed pursuant to paragraph (b).

(b) Whose facilities to confine the alternative livestock pass an inspection by the department to ensure his compliance with NAC 576.250. The department shall charge:

- (1) No fee for its initial inspection of those facilities; and
- (2) A fee of \$100 for each additional inspection of those facilities.

3. A permit expires on January 1 unless renewed on or before that date. The fee for renewal is \$100.

**NAC 576.220 Permits: Revocation.**

1. The board may revoke a permit if the holder of the permit fails to comply with any term or condition of the permit.

2. Notice of the revocation must be given to the holder of the permit personally, or by registered mail sent to his last known address. If the notice is given by registered mail, it shall be deemed received by the holder of the permit on the date 14 days after it is mailed.

3. The holder of a revoked permit:

(a) Shall, not later than 30 days after he receives notice of the revocation, dispose of any alternative livestock he held under the authority of that permit.

(b) Shall not abandon, release, sell or transport any alternative livestock he held under the authority of that permit without the prior written permission of the board.

**NAC 576.230 Identification of animals; loss of identification device.** The holder of a permit shall:

1. Ensure that each of the alternative livestock he possesses in this state under the authority of that permit is identified by an identification device. Each of the progeny of the alternative livestock must be identified by an identification device within 60 days after its birth.

2. Report the loss of an identification device to the department within 48 hours after he discovers the loss, and identify the animal with another identification device within 7 days after he makes that report.

**NAC 576.240 Maintenance, retention and availability of records.** The holder of a permit shall:

1. Maintain, on a form approved by the department, a current monthly record of the total inventory of his herd of alternative livestock. The record must identify each animal by its identification device and note:

- (a) The sex of each animal;
- (b) The date of birth of any progeny;
- (c) The date and source of each addition to the herd;
- (d) The removal of any animals from the herd;
- (e) The death of any animals in the herd; and
- (f) The replacement of any lost identification devices.

2. Retain the record for not less than 3 years.

3. Make the record available for inspection upon request by a representative of the board.

**NAC 576.250 Maintenance of facilities for confinement.** The holder of a permit shall maintain the following facilities to confine his alternative livestock:

1. An enclosure, with a restraining device, for the safe and humane restraint of individual animals; and

2. An enclosure with a perimeter fence that meets the following requirements:

(a) For Rocky Mountain elk (*Cervus elaphus nelsoni*), the top of the fence must be not less than 8 feet above the ground. At least the bottom 7 feet of the fence must be constructed of smooth woven high-tensile mesh wire, which is no smaller than 12 1/2 gauge, with vertical spacing that does not exceed 6 inches. The top foot of the fence may be constructed of strands of smooth high-tensile wire, which are no smaller than 12 1/2 gauge and spaced not more than 6 inches apart.

(b) For Fallow deer (*Dama dama*) and reindeer (*Rangifer tarandus*), the top of the fence must be not less than 7 feet above the ground. At least the bottom 6 feet of the fence must be constructed of smooth woven high-tensile mesh wire, which is no smaller than 12 1/2 gauge, with vertical spacing that does not exceed 6 inches. The top foot of the fence may be constructed of strands of smooth high-tensile wire, which are no smaller than 12 1/2 gauge and spaced not more than 6 inches apart.

(c) The fence posts must be:

(1) Constructed of wood with a diameter of not less than 4 inches, or an equivalent strength of steel;

(2) Extended from not less than 3 feet below the ground to the full height of the fence; and

(3) Spaced not more than 24 feet apart.

(d) The posts for corners and gates must be:

(1) Constructed of wood with a diameter of not less than 6 inches, or an equivalent strength of steel; and

(2) Extended from not less than 3 feet below the ground to the full height of the fence.

(e) Each gate must be of the same height as the fence, constructed of a material whose strength is equivalent to the fence and secured by a latching device and padlock.

(f) The fence must be maintained at all times in such a manner as to prevent the escape of alternative livestock.

**NAC 576.260 Reporting of escapes and infections.** The holder of a permit shall, immediately after he discovers that any of the alternative livestock he holds under the authority of that permit has escaped or become infected with any disease, report the escape or infection to the department.

### **CERTIFIED PRODUCER'S CERTIFICATE**

**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 actual producer of an agricultural product of the soil.

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

1. To obtain a certified producer's certificate, a person must submit to the department an application on a form prescribed by the department.

2. The application must include, without limitation:

(a) A list of any agricultural product of the soil that the applicant anticipates that he will grow during the 12 months for which the certificate is valid;

(b) 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

(c) The fee for 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 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.

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

1. Except as otherwise provided in subsection 2, before approving an application for a certified producer's 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 are listed on the application, the department will waive the inspection and related fee required pursuant to this section.

**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. 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.

**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.

**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.

## SMALL BUSINESS DISCLOSURE

Pursuant to 233B, Nevada Administrative Procedures Act:

Proposed amendments to NAC 565, 573, & 576 pertaining to fees for livestock brand inspections and updating language (565), license fees for public livestock auctions (573), and license fees for livestock & farm product dealers, brokers, commission merchants, buyers, and their agents.

The Administrator of the Department of Agriculture's Division of Livestock Identification and Agriculture Enforcement has recently met with industry representatives at the annual meetings of the Nevada Cattlemen's Association, Nevada Farm Bureau Federation and the State Board of Agriculture in regard to these proposed changes.

- 1) Do these proposed amendments impose a direct and significant economic burden upon small business? **No**
- 2) Do these proposed amendments restrict the formation, operation or expansion of a small business? **No**

Further comments will be solicited during the workshop and public hearings.

The Division has considered numerous methods of cost cutting to reduce the impact of the proposed fees on its constituency. All viable cost cutting methods short of reducing primary statutory required services have been taken.

There will be no additional cost to the agency for enforcement of the proposed regulation changes.

It is estimated that the proposed regulation changes addressing fees will result in an annual increase in the Division's revenue of approximately \$85,000, which will be spent for salaries of Deputy Brand Inspectors currently employed and their corresponding operating expenses. Any other available revenues will be spent upgrading the efficiency of the Division's current methods of providing service, accounting, and tracking livestock and registering brands and marks.