

LCB File No. R097-98

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED
REGULATION OF THE DIVISION OF AGRICULTURE OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

The Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV, (702) 688-1180 is proposing an amendment of regulations pertaining to the Nevada Administrative Code. A workshop has been set for June 15, 1998, 9:00 a.m. at the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV. The purpose of the workshop is to solicit comments from interested persons on the Nevada Certified Producers Program.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV, (702) 688-1180.

A reasonable fee for copying may be charged. This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

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

Nevada Division of Agriculture
2150 Frazer Street
Sparks, NV 89431

Nevada Division of Agriculture
1550 S. Wells Ave.
Reno, NV 89502

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

Nevada Division of Agriculture
Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801

Nevada Division of Agriculture
2300 McLeod
Las Vegas, NV 89104

Date: May 29, 1998

LCB File No. R097-98

**NOTICE OF INTENT TO ACT UPON A REGULATION
OF THE DIVISION OF AGRICULTURE OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

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

The Nevada Division of Agriculture will hold a public hearing at 9:00 a.m. on June 30, 1998 at 350 Capitol Hill Ave., Reno, NV. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to the Nevada Administrative Code pertaining to the Nevada Certified Producers Program. The following information is provided pursuant to the requirements of NRS 233B.060:

Need for and purpose of the proposed regulation or amendment:

This regulation is being proposed as a result of the passage of NRS 576.128 requiring the division to adopt regulations by which a person may obtain certification that he is an actual producer of an agricultural product of the soil.

These regulations will provide a means of verifying, by the Division of Agriculture, that a grower is the actual producer of an agricultural commodity being offered by direct sale. A fee will be charged for this service and a certificate issued listing commodities produced. The certificate must be displayed at the point of sale.

Economic effect of these proposed amendments on the businesses which it is to regulate:

- a. Adverse effects:
A \$20 fee will be charged for the certification service. Participation in the program is voluntary.
- b. Beneficial effects:
These regulations will allow a participant in the certification program to be exempt from certain taxes and fees relating to certain sales of agricultural products of the soil.
- c. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term.

Economic effect of these proposed amendments on the public:

- a. Adverse effects:
There will be no adverse effects on the public.

- b. Beneficial effects:
Increased Nevada grower participation in farmers' markets may have a slight positive economic impact.
- c. Immediate and long term economic effects:
The adverse and beneficial effects are the same for immediate and long term.

Economic cost to the agency for enforcement of the proposed amendments:

There are no additional costs to the agency for enforcement of these amendments.

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

There are no other state, local or federal governmental regulations that the proposed amendments overlap or duplicate.

Fees: The proposed fee for producer certification is \$20 per applicant per year.

Persons wishing to comment upon the proposed action of The Nevada Division of Agriculture may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV. Written submissions must be received by the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV on or before June 30, 1998. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Division of Agriculture, 350 Capitol Hill Ave., Reno, NV 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 Division of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502; the Nevada Division of Agriculture, 1550 S. Wells Ave., Reno, NV 89502; the Nevada Division of Agriculture, Eyer H. Boies Building, 1351 Elm St., Elko, NV 89801; the Nevada Division of Agriculture, 2150 Frazer Street, Sparks, NV 89431; the Nevada Division of Agriculture, 1200 E. Winnemucca Blvd., Winnemucca, NV 89445; the Nevada Division 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 State of Nevada Register of Administrative Regulations which is prepared and published monthly by 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 agency, 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 an 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 Division of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

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2150 Frazer Street
Sparks, NV 89431

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Eyer H. Boies Building
1351 Elm St.
Elko, NV 89801

Nevada Division 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 Division of Agriculture, 688-1180, as soon as possible.

Date: May 29, 1998

LCB File No. R097-98

**PROPOSED REGULATION OF THE DIVISION OF AGRICULTURE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

Nevada Division of Agriculture
350 Capitol Hill Ave.
Reno, NV 89502

**PROPOSED AMENDMENT TO NAC
PERTAINING TO NEVADA CERTIFIED PRODUCERS PROGRAM**

AUTHORITY: NRS 576.128

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

Sec. 2. As used in sections 2 to ____, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to ____, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 3. "Agricultural product of the soil" means any crop grown in soil or any other medium.

Sec. 4. "Certified" means verification by the division that a person whose name appears on a certified producer's certificate is the actual producer of the agricultural commodity or commodities shown on the certificate.

Sec. 5. "Certified producer's certificate" or "certificate" means a written document issued by the division upon verification of crops produced by a grower.

Sec. 6. "Division" means the Nevada State Division of Agriculture.

Sec. 7. "Farmers' market" means a place of business where the actual producer of farm products can bring the products for direct sale to consumers. The term includes a place of business where a person rents space to producers for the sale of farm products.

Sec. 8. 1. A person shall not make a claim or imply in the advertising, selling or labeling of an agricultural product that the product is "certified", as defined in section 4, unless it conforms to the requirements of this chapter.

Sec. 9. The division shall certify a person to be an actual producer of an agricultural product of the soil for products offered for direct sale to any consumer, restaurant or grocery

store.

Sec 10. The division will issue a certified producer's certificate to the producer upon verification of crops being grown.

Sec 11. For produce sold at farmers' markets;

(a) the certificate shall be prominently displayed at the booth or area where the produce is being sold; and

(b) a certified producer may sell for no more than himself and two other certified producers, provided the products are separated and identifiable by each certified producer's valid certificate at the point of sale.

Sec. 12. The division shall maintain a statewide listing of certified producers.

Sec. 13. Certified producer's certificates, or the equivalent, issued by government agencies or private organizations in other states will be recognized by the division provided that;

(a) The procedures used by the agency are substantially similar to those of NAC ___;

(b) The information appearing on the certificate is essentially the same as required by NAC ___; and

(c) The certificates are prominently displayed at the booth or area where the listed agricultural commodities are being sold.

Sec. 14. The division, or an authorized representative, shall perform at least one annual onsite inspection of the property or properties listed on every certified producer's certificate issued to verify production of the commodities listed on the certificate or the existence in storage of the harvested production, or both.

Sec. 15. Each farmers' market requiring participant certification shall be inspected at least once in every six months of operation to verify compliance with this act.

Sec. 16. The division shall charge a nonrefundable fee of \$20 for the annual site inspection. The fee will be waived if the production is from a site inspected for the state organic certification program.

Sec. 17. An application requesting certification must be submitted to the division. All applicable information must be provided including a detailed map showing the location of the farm;

(a) Fees must be included with the application.

(b) Certified producer's certificates issued by the division will be valid for a 12 month period from the time they are approved.

(c) Applications may be submitted at any time and must show all crops that the producer anticipates will be grown for the 12 month period covered by the certificate.

(d) Applications must be submitted at least 30 days prior to the harvest of any crop to be shown on the certificate.

(e) Addition of crops to a certificate will be accepted by the division provided written notification is given at least 30 days prior to the harvest of any added crop.

Sec. 18. The Division may suspend or revoke a certificate issued to a person pursuant to this chapter if the division determines that the person violated or refused to comply with the provisions of this chapter.

Sec. 19. The Division may issue a written order to stop the sale of a commodity if that commodity is labeled, advertised, sold or otherwise represented as certified in violation of this chapter.

Sec. 20. A commodity for which a stop sale order is written pursuant to Sec. 18 must not be sold until the division determines that the sale, labeling or advertising of the item is in compliance with this chapter.

Sec. 21. 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 division adopted pursuant to this chapter.

2. In addition to any other penalty, the administrator may assess a civil fine of \$100.00 against a person who commits an offense, including without limitation;

(a) Misrepresentation of a commodity as certified pursuant to this chapter; or

(b) Violation of a stop sale order.

Sec. 22. A person who is cited for a violation of this chapter or whose certificate has been revoked may apply for a hearing pursuant to subsection 2 of NRS 561.295.