

LCB File No. R044-00

PROPOSED REGULATION OF THE DEPARTMENT OF AGRICULTURE

NOTICE OF WORKSHOP

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

1. NAC 587.860 through 587.928, inclusive, ORGANIC AGRICULTURAL PRODUCTS

Date: March 15, 2000

Time: 2:00 P.M.

Place: Lyon County Public Library
Yerington

For clarification on the proposed amendments, or to obtain a copy of the amendments, please contact Peggy McKie at (775) 688-1182 extension 243.

Address at which the text of the proposed regulations 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.

NOTICE OF INTENT TO ACT UPON A REGULATION

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

The Nevada Department of Agriculture will hold a public hearing at 2:00 p.m., on March 28, 2000 at the Lyon County public library in Yerington. 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 clarification in the procedure for organic certification and changes in the fee schedule for certification. The following information is provided pursuant to the requirements of NRS 233B.060:

Need for and purpose of the proposed regulation or amendment

The changes are needed to clarify the requirements for the certification of organic agricultural products, delete the certification category of "Transition-to-Organic", and eliminate redundant certification requirements for individuals who wish to certify with an approved certification agent other than the Department.

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

- a. Adverse effects:
There are no adverse economic effects.
- b. Beneficial effects:
Duplicate certification requirements and associated fees are eliminated for individuals certified by approved certification agent other than the Department.
- c. Immediate and long term effects:
The immediate and long-term effects of these proposed changes are similar.

Economic effect of these proposals on the public

- a. Adverse effects:
There are no adverse effects on the public.
- b. Beneficial effects:
Consumers who purchase organic products will continue to benefit by increased assurance that organic agricultural products purchased in Nevada at farmer's markets or from other vendors are produced according to recognized and approved organic standards.
- c. Immediate and long term economic effects:
The immediate and long-term effects are similar.

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

No additional costs are anticipated.

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

There are no other government agencies currently involved in the certification of organic agricultural products in Nevada.

Fees

Existing fees for producers and handlers of organic agricultural products remain unchanged. The fee for the category of Transition-to-Organic has been eliminated, as has the fee for registration as an organic certifying agent.

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, date, views, or arguments, in written form, to the Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502. The Nevada Department of Agriculture, 350 Capitol Hill Avenue, Reno, NV 89502 must receive written submissions, on or before March 28, 2000. 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 Ave, 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 Council 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 S. Wells Ave.
Reno, NV 89502

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

Nevada Department of Agriculture
Eyer H. Boies Building
1351 Elm St.
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) 688-1182, as soon as possible.

PROPOSED AMENDMENTS TO NAC 587.860 TO 587.928, INCLUSIVE
January 18, 2000

~~[Text deleted]~~

Text added

ORGANIC AGRICULTURAL PRODUCTS

General Provisions

NAC 587.860 Definitions. (NRS 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.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.863 "Botanical pesticide" defined. (NRS 587.830) "Botanical pesticide" means a pesticide derived from one or more plant materials.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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 ~~[division]~~ **department** or an approved organic certifying agent as utilizing a system of organic farming as described in this chapter.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587___ Common carrier defined. 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 on-call operation.

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.
(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.867 "Dairy animal" defined. (NRS 587.830) "Dairy animal" means an animal or animals raised for milk or milk products.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.868 "Drift" defined. (NRS 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 ~~[or transition to organic]~~ food in excess of 5 percent of the tolerance level established by the United States Environmental Protection Agency.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.877 "Handling plan" defined. (NRS 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 transition to organic]~~ and organic food or fiber.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.879 "Labeling" defined. (NRS 587.830) "Labeling" includes all written, printed and ~~[organic matter]~~ **graphic material** 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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587 ___ Material defined. Substance used in the production, processing, or handling of organic agricultural products of the soil, livestock and livestock products. Such substances include but are not limited to 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 ~~[division]~~ **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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.883 "New applicant" defined. (NRS 587.830) "New applicant" means any person or organization applying for organic ~~for transition to organic~~ certification for the first time or after the previous certification status has been expired for 1 year or more.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.886 "Person" defined. (NRS 587.830) "Person" includes individuals, partnerships, corporations, associations, governmental subdivisions, and public and private organizations.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.888 "Poultry" defined. (NRS 587.830) "Poultry" means domestic birds produced for meat, eggs or other poultry products.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.892 "Prohibited material" defined. (NRS 587.830) "Prohibited material" means a material that ~~[is disallowed in organic food production or handling]~~ *shall not be used in the production and handling of organic agricultural products.*

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.894 "Remedy" defined. (NRS 587.830) "Remedy" means anything that relieves or cures a disease.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.895 "Renewal applicant" defined. (NRS 587.830) "Renewal applicant" means a person who was granted organic ~~[or transition to organic]~~ certification in the previous *calendar* year.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.897 "Slaughter stock" defined. (NRS 587.830) "Slaughter stock" means an animal that is raised for meat or other products.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.8995 Compliance with chapter and federal act. (NRS 587.830)

1. A person shall not ~~[:]~~ *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.*

~~[(a) Make a claim or imply in the advertising, selling or labeling of an organic agricultural product that the product is "organic," "certified organic" or "transition to organic," unless it conforms to the requirements of this chapter and the federal act.~~

~~(b) Affix a label to, or otherwise provide market information concerning, an agricultural product if the label or market information implies, directly or indirectly, that the product is produced and handled using organic methods, except in accordance with this chapter.]~~

~~2. [A producer shall not sell to a vendor or handler a product with the representation that the product is an “organic” or “transition to organic” product unless before the sale the producer provides the vendor or handler with the approved organic or transition to organic certificate verifying that the producer has grown, raised or produced the product in conformance with this chapter. Producers, handlers and vendors shall, upon request, provide the division with all records pertaining to the sale or distribution of “organic,” “certified organic” and “transition to organic” products which verify that the product or products have been produced and handled in accordance with this chapter.]~~*No agricultural product shall be sold in Nevada as organic unless the product is certified by:*

(a) The department; or

(b) A certifying agent approved by the department in accordance with NAC 587.902

~~3. [Food, feed or fiber that is produced out of state and sold as organic in this state must be certified by the division or an organic certifying agent approved by the division.]~~ *A person shall, upon request, provide the department with all records pertaining to the sale of “organic” or “certified organic” products which verify that the product or products are certified.*

~~[4. A person shall not advertise or sell an agricultural product as “organic,” “certified division and organic producer certification has been granted for that crop year.]~~

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Certification and Registration, [Generally] Certification Document

NAC 587.900 Certification required for producers and handlers; maintenance by division of list of certifying agents; application. (NRS 587.830)

1. The ~~[division]~~ *department* shall certify producers and handlers of organic agricultural products in this state.

~~[2. A producer or handler shall not label, market, advertise or represent as “organic” or “transition to organic” any food or fiber that is sold, kept, offered or exposed for sale unless that producer or handler is:~~

~~—(a) Certified by the department pursuant to this chapter; or~~

~~—(b) An out of state producer or handler who has a current certification from an organic certifying agent recognized by the department.~~

~~—3. The department shall maintain and make available to the public a current listing of recognized organic certifying agents who meet all the requirements of this chapter.~~

~~]~~

~~[4.]~~ *2. Producers and handlers must be certified on an annual basis as prescribed by the [division] department.*

~~[5.]~~ *3. To obtain initial certification, a producer or handler of organic agricultural products must submit a completed application [on a form provided by the division] and the required fees to the [division] department [on or before March 1 of the calendar year to which the application applies.] by the following deadlines:(a) For producers: no less than 90 days prior to the harvest of the agricultural product to be certified; or*

(b) For handlers: prior to operating as a handler of organic products.

~~[6.]~~ *4. Each application must include such supporting documentation as the [division] department determines necessary for [each organic certifying agent applying for registration and] each farm, field, handling facility and other location to be evaluated for certification.*

~~[7]~~5. Food, feed or fiber harvested within 90 days after receipt of an application for new certification by the ~~[division]~~ *department* ~~[for an organic certifying agent for new certification]~~ must not be certified as "organic" ~~[or "transition to organic."]~~

~~[8]~~6. Upon request of the ~~[division]~~ *department*, the advisory council for organic agricultural products may review and make recommendations on any application ~~[or registration]~~ pursuant to this chapter.

7. Producers and handlers of organic agricultural products that are certified by the department will be issued a certification document and a producer or handler number.

(a) Except as otherwise provided in NAC 587.8995.3 receipts for all sales from the producer to the first handler must include the producer number and the statement "Nevada Department of Agriculture Certified Organic Producer #{insert number}".

8. A producer selling certified organic products directly to consumers at a farmer's market or through a facility on farm shall conspicuously post in the sales area or distribution area the certification document and producer identification number issued by the department or an equivalent document issued by an approved certifying agent.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.901 Initial and additional inspections of farm, facility or site; written complaints of alleged violation of chapter. (NRS 587.830)

1. The ~~[division]~~ *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 ~~[division]~~ *department* may conduct:

(a) An additional on-site inspection of each certified producer ~~[before or during harvest of an annual crop that will be processed:]~~ *or handler when normal production or sales activity can be observed; and*

~~[(b) Unannounced inspections in cases of suspected violations of this chapter; and]~~

~~[c]~~ *(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 ~~[division]~~ *department*.

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

5. The ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.902 ~~[Registration]~~ *Certification by [as]* organic certifying agent *other than Department*. (NRS 587.830)

~~1. [A person may apply to the division for registration as an organic certifying agent. The application must be submitted on a form provided by the division and include all certifying policies and procedures and an annual fee in the amount prescribed by the division.] A producer~~

or handler of organic agricultural products may be certified by a certifying agent other than the department if the following conditions are met:

~~[2.—The division shall issue a certificate of registration as an organic certifying agent if the division determines that the:]~~

(a) Certification standards of the **[applicant] agent** are equivalent to the certification standards of the **[division] department** ; and

(b) Policies and procedures of the **[applicant] agent** are in compliance with the provisions of this chapter, chapter 587 of NRS, the federal act and any applicable orders of the **[division] department**.

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

(d) *The agent provides evidence of a minimum of two years experience as an inspector of organic producers and handlers.*

2. *A producer or handler of organic agricultural products certified by a certifying agent other than the department must, upon request, furnish to the department documents provided by the agent which demonstrate that the agent is in compliance with this section and that the organic certification issued by the certifying agent is current and valid.*

3. ~~[Each person for whom a certificate of registration as an organic certifying agent has been issued pursuant to this chapter shall provide a copy of all application, certification and inspection documents to the department within 30 days after application, certification or inspection of a certified producer or handler.]~~ *If a producer or handler of organic agricultural products is unable to meet the requirements of this section the department shall issued a notice of non-compliance to the producer or handler.*

(a) *If a producer or handler who receives notification of non-compliance does not correct the deficiencies identified within the time specified, the department shall consider them not certified to produce or handle organic agricultural products.*

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.903 Logos for certification seals. (NRS 587.830) The **[division] department** shall use the following logos as certification seals:

1. The Nevada **[Division] Department** of Agriculture Organic Certification Seal must include the phrase "Nevada **[Division] Department** of Agriculture Certified Organic" and must be in substantially the following form:



~~[2. The Nevada Division of Agriculture Transitional Seal must include the phrase “State Department of Agriculture Transition to Organic” and must be in substantially the following form:]~~

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.904 Use of certification seals. (NRS 587.830)

1. The Nevada ~~[Division]~~ **Department** of Agriculture Organic Certification Seal~~[or the Nevada Division of Agriculture Transitional Seal]~~, as prescribed by the ~~[administrator]~~ **director**, may be placed on all:

- (a) Containers of organic agricultural products that are certified by the ~~[division]~~ **department**;
- (b) Bulk displays which advertise organic agricultural products that are certified by the ~~[division]~~ **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 ~~[division]~~ **department**.

2. The authorization to imprint facsimile seals granted by subsection 1 is subject to review by the ~~[administrator]~~ **director** on an annual basis, or more frequently, if determined necessary by the ~~[administrator]~~ **director**.

3. A person shall not change the Nevada ~~[Division]~~ **Department** of Agriculture Organic Certification Seal ~~[or the Nevada Division of Agriculture Transitional Seal]~~ from the form prescribed in NAC 587.903 except for increases or decreases in size and changes in color.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.905 Expiration of certification; fees for issuance and renewal of certification and registration; late fee. (NRS 587.830)

1. The certification of a producer or handler of organic agricultural products issued by the ~~[division]~~ **department** expires on March 31 of the year following the calendar year in which the certification was issued.

2. Except as otherwise provided in subsection 3, the ~~[division]~~ **department** shall charge a nonrefundable fee as follows for each initial or renewal application submitted to the ~~[division]~~ **department** pursuant to this chapter:

(a) Producers \$100.00

(b) Handlers \$100.00

~~[(c) Organic certifying agents — 100]~~

~~[(d) Transition to organic producer or handler — 100]~~

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 applicant for new certification ~~[or registration]~~ 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. An application for the renewal of a certification ~~[or registration]~~ that is received by the ~~[division]~~ **department** after ~~[the expiration date of March 31]~~ **March 1st** must be considered late. ~~[A late application]~~ **Applications** for renewal **received after March 1st** must be accompanied by a late fee of \$50 in addition to the fee or fees otherwise prescribed by this section.

7. The ~~[division]~~ *department* shall consider an application to renew a certification ~~[t]~~that has been expired for more than 1 year as an application for new certification ~~[or registration]~~ for the purposes of this section.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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

1. Except as otherwise provided in subsection 2, in addition to all other fees prescribed by the ~~[division]~~ *department*, the ~~[division]~~ *department* shall charge the following additional fees for ~~[the addition of]~~ fields, sites or areas to be certified *added 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

(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 ~~[division]~~ *department*.

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

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

4. The department may deny certification to applicants for producer or handler certification who fail to demonstrate the ability to comply with the requirements of this chapter.

(a) 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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Producers of Vegetable Products

NAC 587.907 Requirements for certification; ~~[grower identification number]~~; contents of application. (NRS 587.830)

~~[1.—All producers of organic agricultural products must be certified by the department before any product is sold as "organic" or "transition to organic."]~~

~~[2]~~1. The ~~[division]~~ *department* shall certify a producer of organic agricultural products if:

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

(b) The ~~[division]~~ *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 ~~[division]~~ *department* showed that no prohibited materials had been used and there was no drift of other contaminants; and

(e) The ~~[division]~~ *department* determines that prohibited materials have not been used for:

(1) At least 36 months before the harvest of organic agricultural products ~~[or]~~.

~~[(2) At least 12 months before the harvest of transition to organic agricultural products.]~~

~~—3.—An agricultural product from a field or site that meets all the criteria for certification except the requirement that the product be free of prohibited materials for 36 months before~~

~~harvest may be labeled and sold under the transition to organic seal if the product meets the following minimum standards:~~

~~—(a) In the case of perennial crops, no synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, arsenicals or other synthetic materials have been applied to the field or site in which the product is grown for the 12 months immediately preceding the appearance of flower buds and throughout the remainder of the growing season.~~

~~—(b) In the case of annual and biennial crops, no synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, arsenicals or other prohibited materials have been applied to the field or site in which the product is grown for the period from 12 months before seed planting or transplanting through the remainder of the growing and harvest season for the particular product.~~

~~4. Producers of organic agricultural products and transition to organic agricultural products who make application to the department for certification must be assigned a grower identification number by the department. Except as otherwise provided in subsection 5, all sales from the producer to the first handler, vendor or consumer must include the grower identification number on the invoice or other sales document.~~

~~5. A producer selling certified organic agricultural products directly to consumers at a farmer's market or through a facility on the farm, where no invoices are exchanged, shall conspicuously post in the sales or distribution area the certification document and grower identification number issued to the producer by the division.]~~

~~[6]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.~~

~~[7]3. An applicant for certification as a producer of organic agricultural products must ~~complete an application on a form prescribed by the division that includes~~ *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 ~~[division]~~ *department*.

~~[8]4. An applicant for initial certification or renewal of certification as a producer of organic agricultural products must submit to the ~~[division]~~ *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.

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

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.908 Records of certain producers; commingling; certification of farm, field or site; contamination; soil fertility tests. (NRS 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 ~~[division]~~ *department*. *Such records shall conform to the requirements set forth in Section 587.909.1.*

2. A producer of the same crop or agricultural product grown both organically and nonorganically on the same farm must demonstrate ~~[to the satisfaction of the division]~~ *with clear and convincing evidence* that physical facilities and ~~[management procedures]~~ *organizational ability* 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 ~~[for a transition to organic product]~~. The ~~[division]~~ *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 ~~[division]~~ *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 ~~[division]~~ *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 ~~[administrator]~~ *director*.
- (Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.909 Maintenance of records. (NRS 587.830)

1. Each producer who sells an agricultural product that is identified as organic ~~[or transition to 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 ~~[and transition to 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 ~~[division]~~ *department* may deny or suspend the certification of a producer for intentionally falsifying or refusing to supply adequate records until the ~~[division]~~ *department* is provided with adequate records.
- (Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.910 Requirements for organic production. (NRS 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 ~~60~~ 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 *and documented* by an analysis of soil and plant nutrients.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.911 Management plans. (NRS 587.830)

~~[1. — An irrigation management plan must conform to recognized organic practices and water conservation principles.]~~

~~[2.]~~ 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 ~~[if applied to nonfood plants]~~, 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.

~~[3.]~~ 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.

[4]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 that microbial diseases shall not be from a genetically engineered source***; and
- (i) Materials listed as "allowed with restrictions," if justified for immediate insect control measures.

[5]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 materials list published by the **[division] department**; and
- (b) Materials listed as "allowed with restrictions" in the materials list published by the **[division] department** if justified for immediate reduction of crop loss because of the abnormal occurrence of these pests.

6. 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 materials list published by the **[division] department**; and

(b) Materials listed as "allowed with restrictions" in the materials list published by the ~~[division]~~ *department* or the national list, if justified as a temporary measure in the production of food or fiber.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.912 Propagation materials. (NRS 587.830)

1. A producer shall only use propagation materials that are ~~[certified as]~~ organically produced ~~[unless the producer provides verification that they were produced with accepted organic practices and materials allowed pursuant to this chapter.]~~ *except that non-organically 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.—A producer may use acid delinted seed for organically produced or transition to organic cotton.]~~

~~[6]~~5. Annuals must be grown organically from seed through harvest. Annual transplants must be organically grown to meet the standards for organic crop production.

~~[7]~~6. The ~~[division]~~ *department* may consider nonorganically grown perennial transplants to be "organic" after they have been grown under organic practices for 1 year.

~~[8.—Crops produced from propagation materials, other than seeds treated with synthetic fungicide or acid delinted cotton seeds, that have been produced or treated with prohibited materials may not be sold as:~~

~~—(a) Transition to organic within the first 12 months after planting or transplanting.~~

~~—(b) Organic within the first 36 months after planting or transplanting.]~~

~~[9]~~7. A producer ~~[may]~~ *shall not* use commercial soil mixes that contain materials listed as ~~["allowed"]~~ *prohibited* in the materials list published by the ~~[division]~~ *department*.

~~[10]~~8. As used in this section, the term "seed" includes strawberry crowns, *seed garlic* and *seed* potatoes.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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 ~~[division]~~ *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 ~~[division]~~ *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 ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Producers of Animal Products

NAC 587.914 Requirements for animal products marketed and labeled as organic. (NRS 587.830)

1. All animal products marketed and labeled as organic must be produced by producers certified by the ~~[division]~~ *department or a certifying agent approved by the department*. 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 ~~hatching~~ *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 ~~hatching~~ *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 ~~transition to organic or~~ 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 ~~transition to organic or~~ 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 ~~[division]~~ *department* and submits the organic feed supplier record to the ~~[division]~~ *department* at least 24 hours before using the nonorganic feed;

(c) The ~~[division]~~ *department* verifies the emergency conditions;

(d) The ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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 ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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 ~~[division]~~ *department* to prohibit labeling or marketing of animal products as "organic" or "organically produced."
- (Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Handlers of Organic Products

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

1. ~~[Each handler of food or fiber produced in this state that is sold as organic or transition to organic must be certified by the division]~~ *Except as otherwise provided in paragraph (a) handlers of organic agricultural products must be certified by the department or an approved certifying agent.* A handler shall not ~~[sell]~~ *handle* any organic product until he has registered with the ~~[division]~~ *department* and paid the appropriate fee.

(a) A person who operates as a common carrier is exempt from the requirement for certification but must handle organic agricultural products in a manner such that there is no risk of contamination by prohibited materials or commingling with conventional product.

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 ~~[division]~~ *department* or an organic certifying agent to process or handle organic ~~[or transition to organic]~~ food or fiber.

4. A handler applying for certification or renewal of certification shall submit a completed application to the ~~[division]~~ *department* with an organic processing or handling plan that includes:

(a) A description of physical facilities and management procedures to prevent commingling among nonorganic ~~[transition to organic]~~ and organic food or fiber and to prevent contamination from prohibited materials used in the processing or handling of organic ~~[or transition to 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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.920 Prohibition of certain acts; labeling and content of processed products; maintenance of records. (NRS 587.830)

1. A handler shall not:

- (a) Represent as organic ~~for transition to 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 materials that contain or have 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 ~~division~~ **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 ~~including the percentage of each ingredient certified.~~
4. Each handler shall maintain auditable records for not less than 5 years including:
- (a) Records of all organic ~~and transition to 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 ~~for transitions to organic~~ and a record of the applicable organic certifying agent.
5. The ~~division~~ **department** may deny or suspend the certification of a handler for intentionally falsifying or refusing to supply adequate records until the ~~division~~ **department** is provided with adequate records.
- (Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.921 Display of certification seals and certain other information on packaging or labels.
(NRS 587.830)

- 1. Processed food or fiber products which contain *no less than 95 per cent* organically produced ingredients that are certified by the ~~division~~ **department**, processed pursuant to this chapter and contain no prohibited ingredients may include ~~the term "organic" and~~ the Nevada ~~Division~~ **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 ~~division~~ **department**, but include additional ingredients, additives or processing aids, may use ~~the term "organic" in the statement of ingredients to modify the name of the ingredient that is organically produced and may include~~ the Nevada ~~Division~~ **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 produced pursuant to this chapter as transition to organic, but which include additional ingredients, additives or processing aids, may use the term “transitional organic” in the statement of ingredients to modify the name of the ingredient that is organically produced and may include the State Department of Agriculture Transitional Seal in an area on the packaging other than the principal display panel. Each certified transition to organic ingredient and its total percentage by weight of the product must be listed in the information panel and be identified as “transition to organic.”]~~

[4]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 ~~[Division]~~ **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).

~~[5]~~4. The identity of the organic certifying agent must be listed by the manufacturer on the packaging or the label.

~~[6]~~5. The name and address of the producer or handler must be on the organic product label.

~~[7]~~6. The ~~[division]~~ **department**, or an organic certifying agent, shall not certify drugs or drug ingredients under this chapter.

~~[8]~~7. A person shall not use a Nevada ~~[Division]~~ **Department** of Agriculture Organic Certification Seal ~~[or Transitional Seal]~~ in connection with, or represent as certified by the ~~[division]~~ **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.

~~[9]~~8. A person shall not use a seal of the ~~[division]~~ **department** or represent any product or ingredient as certified by the ~~[division]~~ **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 material, signage or other printed material.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Standards

NAC 587.922 Classification of materials as "allowed," "allowed with restrictions" and "prohibited"; publication of list by division. (NRS 587.830)

1. The ~~[administrator]~~ **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 ~~[division]~~ *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 ~~[division]~~ *department*, must not be used.

5. Manufacturers of materials, other than those listed by name in the materials list published by the ~~[division]~~ *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 ~~[division]~~ *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 ~~[division]~~ *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 ~~[division]~~ *department*.

6. Materials contained on the prohibited materials list published by the ~~[division]~~ *department*:

(a) Must not be used for production and handling of organic ~~[or transition to 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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.923 ~~[Pesticides]~~ *Prohibited materials*; noxious weeds. (NRS 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 ~~[pesticide]~~ *prohibited material*, the certified producer shall notify the ~~[division]~~ *department* within 48 hours after the drift or misapplication occurred.

2. If the ~~[pesticide]~~ *prohibited materia* residue level exceeds the residue level allowed under subsection 4, the agricultural product must not be sold as "organically produced". ~~[or "transition to organic certification pending."]~~

3. Subsequent agricultural products grown in a field exposed to ~~[pesticide]~~ drift or misapplication, including feed crops and pasturage for livestock, may not be sold as "organically produced" ~~[or "transition to organic certification pending"]~~ unless approved by the ~~[division]~~ *department* after additional ~~[pesticide]~~ 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 **[division] 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 **[division] department**. Whenever possible, the **[division] 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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

NAC 587.924 Testing required by division. (NRS 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 **[division] department**. The cost of all tests required pursuant to subsections 2 to 6, inclusive, must be borne by the **[division] department**.

2. Periodically, samples may be composited by the **[division] 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, ~~for other nonorganic residue~~ **other prohibited material**, or natural toxins.

3. When determined necessary by the **[division] 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 **[division] 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 **[division] department** may require testing of farms, fields, production, processing or handling equipment which the **[division] department** determines may be in contact with organic food or fiber that may be contaminated with a prohibited material.

6. The **[division] department** may require testing of soil samples when it suspects that prohibited or restricted materials are present.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

Enforcement; Violations

NAC 587.925 Maintenance of records by division; audits; confidentiality. (NRS 587.830)

1. Except as otherwise provided in subsection 2, the **[division] 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 **[division] department**.

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

3. The ~~[division]~~ *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 ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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

1. The ~~[division]~~ *department* may deny, suspend or revoke the certification of a producer or handler ~~[for the registration issued to an organic certifying agent]~~ pursuant to this chapter if the ~~[division]~~ *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 ~~[division]~~ *department*;

(e) Has previously had a certification 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 ~~[division]~~ *department*.

2. The ~~[division]~~ *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 ~~[division]~~ *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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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 ~~[division]~~ *department* adopted pursuant to this chapter or chapter 587 of NRS.

2. In addition to any other penalty, the ~~[administrator]~~ *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 ~~[division]~~ *department* may suspend the certification of the person who committed the offense for a period prescribed by the ~~[administrator]~~ *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. (Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)

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.

(Added to NAC by Bd. of Agriculture by R190-97, eff. 4-10-98)