

**ADOPTED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

LCB File No. R032-06

Effective September 18, 2006

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

AUTHORITY: §§1 and 2, NRS 587.830.

A REGULATION relating to agriculture; increasing certain fees for the certification or continued certification of an operation that produces or handles organic agricultural products; and providing other matters properly relating thereto.

Section 1. NAC 587.905 is hereby amended to read as follows:

587.905 1. A person seeking to receive certification of a production or handling operation must submit:

- (a) An application for certification pursuant to 7 C.F.R. § 205.401; and
- (b) The fees required pursuant to subsection 3.

2. A person seeking to maintain certification must annually submit:

- (a) An updated organic system plan of production or handling pursuant to 7 C.F.R. § 205.406; and

- (b) The fees required pursuant to subsection 3.

3. A person seeking certification or continued certification of a production or handling operation must pay the following fees to the Department:

- (a) For an application for certification pursuant to subsection 1, a nonrefundable fee of \$75.
- (b) For annual continued certification pursuant to subsection 2, a nonrefundable fee of \$50.

(c) For each year in which a person applies for certification or continued certification, an amount specified in the following table based on an estimate of the gross income of the organic sales of the production or handling operation for the calendar year in which the certification or continued certification is requested:

Gross Income	Amount
\$0 to \$5,000	\$0
\$5,001 to \$15,000	\$50
\$15,001 to \$100,000	\$100
\$100,001 to \$250,000	\$200
\$250,001 to \$500,000	\$300
Over \$500,000.....	\$500
<i>\$20,000.....</i>	<i>\$0</i>
<i>\$20,001 to \$40,000</i>	<i>\$100</i>
<i>\$40,001 to \$100,000</i>	<i>\$200</i>
<i>\$100,001 to \$250,000</i>	<i>\$500</i>
<i>\$250,001 to \$500,000</i>	<i>\$1,000</i>
<i>\$500,001 to \$1,000,000</i>	<i>\$2,000</i>
<i>More than \$1,000,000</i>	<i>\$4,000</i>

(d) For each initial on-site inspection , a nonrefundable fee of ~~[\$25]~~ **\$30** per hour, for actual inspection time spent at the inspection site.

4. The payment of a fee based on gross income from organic sales required pursuant to paragraph (c) of subsection 3 will be refunded if the request for certification or continued certification is withdrawn in writing and received by the Department before the initial inspection for the year in which the certification or continued certification is requested. In determining the amount of the fee pursuant to paragraph (c) of subsection 3:

(a) For certification of a handling operation, all organic products handled at an area of operation certified by the Department must be included in calculating the estimated gross income; and

(b) For certification of a production operation, only organic products that are produced from operations certified by the Department must be included in calculating the estimated gross income.

5. Any forms or fees required to be submitted pursuant to subsections 1 to 4, inclusive, that are received by the Department after March 31 must be considered late and must be accompanied by a late fee of ~~[\$50]~~ \$250 in addition to ~~[the fee or]~~ any fees otherwise prescribed by this section.

Sec. 2. NAC 587.906 is hereby amended to read as follows:

587.906 1. Except as otherwise provided in subsection 2, in addition to all other fees prescribed by the Department, the Department shall charge the following additional fees for the fields or areas of operation to be certified 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~~
.....~~\$25.00]~~ \$30.

(b) For mileage, per mile [~~.....~~.40], *an amount that is equal to the mileage allowance for a state officer or employee who uses his private conveyance for reasons of personal convenience in the transaction of state business.*

(c) For the per diem of the inspector, the amounts currently allowed by law for state employees, under the conditions set by the Department.

2. The Department shall prorate the fees prescribed by subsection 1 among the persons whose property is inspected in the same area if all inspections can be completed during the same trip of the inspector, as determined by the Department.

3. The Director may also charge a reasonable fee to cover the costs of the reproduction and mailing of application forms.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R032-06**

The State Board of Agriculture adopted regulations assigned LCB File No. R032-06 which pertain to chapter 587 of the Nevada Administrative Code on August 25, 2006.

Notice date: 3/23/2006

Date of adoption by agency: 8/25/2006

Workshop date: 4/28/2006

Hearing date: 6/23/2006

Filing date: 9/18/2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notices were put out in County Libraries and Nevada Department of Agriculture offices.

Notices were sent to all Nevada Organic Growers and Handlers.

Interested persons may obtain a summary by contacting the Nevada Department of Agriculture 350 Capitol Hill Avenue Reno, Nevada 89502, 775-688-1180.

2. The number of persons who: (a) attended each workshop/hearing; (b) testified at each workshop/hearing; and (c) submitted to the agency written statement.

Workshop held April 28th, 2006 - Reno

Number attended: 6

Number testified: 6

Number of written statements submitted: 0

Summary of comments:

No comments were made regarding increasing hourly inspection costs to \$30.

The late fee increase from \$50 to \$250 was questioned as being too costly. After a discussion on the large amount of time and resources it takes to track down applicants who were consistently late, the \$250 fee was believed to be justified.

There was much discussion on the gross income fee schedule. It was felt the initially proposed six category gross income schedule was not set up with enough sales categories. Increasing the number of categories from six to sixteen allowed for more fair representation of fee payment across the board from small to large organic growers. The schedule was changed for the hearing.

There were no comments on increasing the inspection rate from \$25 to \$30 /hour and the mileage rate from 40 cents to whatever the current state mileage rate is (now 44 ½ cents).

Hearing held June 23rd, 2006 – Reno

Number attended: 1

Number testified: 0

Number of written statements submitted: 0

Summary of comments: There were no comments.

- 3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from businesses and the public as outlined in #1 above. Interested persons may obtain a summary by contacting the Nevada Department of Agriculture 350 Capitol Hill Avenue Reno, Nevada 89502, 775-688-1180.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No changes to the proposed regulation were submitted thus the regulation was adopted as proposed.

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

(a) Both adverse and beneficial effects;

(b) Both immediate and long-term effects;

Businesses.

There were no adverse effects on businesses. The beneficial effects are that a sustained State Organic Program will stay in place and organic businesses will not have to go to another state for organic certification.

The immediate and long term effects on businesses are the same.

Public

There were no adverse or beneficial effects on the public.

The immediate and long term effects on the public are the same.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

None

- 7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other regulations overlapped or duplicated.

- 8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The total annual amount collected will be approximately \$12,500. The fees will be used to pay for the required for USDA audit, to manage the organic certification program and for organic program promotion. The USDA audit cost is \$5,000 - every 4 years.