

LCB File No. R032-06

**PROPOSED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

**REVISED
Notice of Workshop and Hearing
OF INTENT TO ADOPT REGULATIONS**

HEARING

Times: Hearing, 10:00 AM

Date: Friday, June 23rd, 2006

Locations: Nevada Department of Agriculture Office, Reno
350 Capitol Hill Avenue
Reno NV 89502

Nevada Department of Agriculture Office, Las Vegas
2300 McLeod Street
Las Vegas NV 89104

Written comments and testimony may be submitted prior to the hearing date and will be included with any testimony presented at the hearing. All oral and written testimony will be in the record of the hearing.

PROPOSED AMENDMENT TO NAC 587

Need and Purpose of the proposed amendments: To adjust the fee schedule to enable continued operation of the Program for Organic Certification.

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

1. Adverse effect: Fees will increase for organic handlers.
2. Beneficial effects: Organic clients will not have to utilize out of state certifiers which charge higher fees.
3. Immediate and long term effect: Same.

Economic effects of the proposed amendments on the public:

1. Adverse effects: Organic businesses may have to increase prices to cover increased fees.
2. Beneficial effects: Continuation of a viable organic program in Nevada.

3. Immediate and long-term effects: Same

There will be no additional costs to the Department for enforcement of the amendments.

This regulation does not overlap or duplicate any other state, local or federal regulation.

Addresses 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.

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 Avenue
Reno, NV 89502

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

Nevada Department of Agriculture
1351 Elm Street
Elko, NV 89801

Nevada Department of Agriculture
2300 McLeod
Las Vegas, NV 89104

Churchill County Library 553 South Maine Street Fallon, NV 89406	Las Vegas – Clark County Library 833 Las Vegas Blvd North Las Vegas, NV 89101	Elko County Library 720 Court Street Elko, NV 89801
Esmeralda County Library P.O. Box 430 Goldfield, NV 89013-0430	Eureka Branch Library 10190 Monroe Street Eureka, NV 89316-0293	Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445
Lincoln County Library 93 Main Street Pioche, NV 89043-0330	Lyon County Library 20 Nevin Way Yerington, NV 89447	Mineral County Library First & A Street Hawthorne, NV 89415-1390

Goldfield Public Library Forth & Crook Street Goldfield, NV 89013-0430	Tonopah Public Library 171 Central Street Tonopah, NV 89049-0449	Pershing County Library 1125 Central Avenue Lovelock, NV 89419-0781
Storey County Library 95 South R Street Virginia City, NV 89440-0014	Washoe County Library 301 South Center Reno, NV 89505-2151	White Pine County Library 950 Campton Street Ely, NV 89301
Battle Mountain Branch Library Battle Mountain, NV 89820-0141	Carson City Library 900 N. Roop Street Carson City, NV 89701	Douglas County Library 1625 Library Lane Minden, NV 89423-0337
State Library 100 North Stewart Street Carson City, NV 89701-4285	Smith Valley Library 22 Day Lane Smith, NV 89430	

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, call Gary Cross at the Nevada Department of Agriculture, (775) 688-1182 Ext. 244 as soon as possible.

NRS 233B.064 Permanent regulations not to be adopted or revised by the Legislative Counsel; agency's reasons for adoption.

Upon adoption of any regulation, the agency, if requested to do so by an interested person before adoption, or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

LCB File No. R032-06

**PROPOSED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

PROPOSED AMENDMENT TO NAC 587

Need and Purpose of the proposed amendments: To adjust the fee schedule to enable continued operation of the Program for Organic Certification.

The proposed deletions have been struck out, and proposed additions are in italic:

CERTIFICATION OF ORGANIC AGRICULTURAL PRODUCTS

NAC 587.9015 Adoption by reference of Program for Organic Certification. (NRS 587.830) The National Organic Program as set forth in 7 C.F.R. §§ 205.1 to 205.690, inclusive, as it existed on September 1, 2001, is hereby adopted by reference as the Program for Organic Certification in this State. A copy of these regulations may be obtained free of charge from the State Department of Agriculture, 251 Jeanell Drive, Suite 3, Carson City, Nevada 89703.

NAC 587.903 Certification seal: Form. (NRS 587.830) The Department shall use the following logo as a certification seal. The logo must include the phrase “Nevada Department of Agriculture Certified Organic” and must be in substantially the following form:



NAC 587.904 Certification seal: Use. (NRS 587.830)

1. The Nevada Department of Agriculture Organic Certification Seal may be placed on all:
 - (a) Containers of organic agricultural products that are certified by the Department;
 - (b) Bulk displays which advertise organic agricultural products that are certified by the 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 Department.

2. The authorization to imprint facsimile seals granted by subsection 1 is subject to review by the Director on an annual basis, or more frequently, if determined necessary by the Director.

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

NAC 587.905 Application for and continued certification of production or handling operation; payment, amount and refund of fees. (NRS 587.830)

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>Gross Income</i>	<i>Amount</i>
<i>\$ 0 to \$ 5000.....</i>	<i>..... \$15</i>
<i>\$ 5001 to \$10,000.....</i>	<i>..... \$ 30</i>
<i>\$ 10,001 to \$15,000.....</i>	<i>..... \$ 45</i>
<i>\$15,001 to \$20,000.....</i>	<i>..... \$ 60</i>
<i>\$ 20,001 to \$25,000.....</i>	<i>... \$ 75</i>
<i>\$ 25,001 to \$30,000.....</i>	<i>... \$ 90</i>
<i>\$30,001 to \$35,000.....</i>	<i>... \$ 105</i>
<i>\$35001 to \$50,000</i>	<i>\$150</i>
<i>\$50,001 to \$75,000</i>	<i>\$225</i>
<i>\$75001 to \$100,000</i>	<i>\$300</i>
<i>\$100,001 to \$150,000</i>	<i>\$450</i>

<i>\$150,001 to \$200,000</i>	<i>\$600</i>
<i>\$200,001 to \$250,000</i>	<i>\$750</i>
<i>\$250,001 to \$350,000</i>	<i>\$1050</i>
<i>\$350,001 to \$500,000</i>	<i>\$1500</i>
<i>\$500,001 to \$1,000,000</i>	<i>\$2500</i>

(d) For each initial on-site inspection a nonrefundable fee of ~~[\$25.00]~~ *\$30.00* 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 fees otherwise prescribed by this section.

NAC 587.906 Fees for addition of fields or areas of operation 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 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]~~ *\$30.00*
- (b) For mileage, per mile..... ~~[40]~~ *Prevailing State mileage reimbursement rate for the use of personal vehicles for the State’s convenience.*

(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.

NAC 587.928 Advisory Council for Organic Agricultural Products: Compensation of members. (NRS 587.820, 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.

SMALL BUSINESS IMPACT STATEMENT

The purpose of this Small Business Impact Form is to provide a framework pursuant to NRS 233B.0608 to determine where a small business impact statement is required for submittal of a proposed regulation before the Nevada Department of Agriculture. If questions one (1) and two (2) are answered **NO**, then a small business impact statement is not required. If question one (1) or question two (2) is answered with a **YES**, then a small business impact statement is required prior to conducting a public workshop(s) by the Department. (This form must be submitted with the proposed regulation when submitted for drafting by LCB and adoption by the Nevada State Board of Agriculture.)

Proposed regulation: NAC 587, pertaining to Certification of Organic Agricultural Products

Part 1

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? No.
2. Does this proposed regulation restrict the formation, operation or expansion of a small business? No.

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).