

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
MICHAEL ROBERSON, *Senator, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
PAUL ANDERSON, *Assemblyman, Chairman*
Cindy Jones, *Fiscal Analyst*
Mark Krmpotic, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
ROCKY COOPER, *Legislative Auditor* (775) 684-6815
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

August 31, 2016

Ruth Tietjen
Administrative Assistant
Plant Industry Division
Nevada Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Re: LCB File No. R146-16

Dear Ms. Fox:

A proposed regulation R146-16 of the State Department of Agriculture has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Erin M. Roohan", with a long horizontal flourish extending to the right.

Erin M. Roohan
Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

EMR/slj
Enclosure

RECEIVED
STATE OF NEVADA
DEPARTMENT OF
AGRICULTURE
2016 SEP -2 AM 9:36

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

LCB File No. R146-16

August 31, 2016

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

AUTHORITY: §§1-12, NRS 561.301 and 576.128.

A REGULATION relating to agricultural products; revising certain provisions relating to issuing certified producer's certificates for agricultural products; providing a fee relating to aquaculture products; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Department of Agriculture to adopt regulations requiring certain producers of farm products to obtain certification as an actual producer of a farm product. (NRS 576.128) The Department is also authorized under existing law to regulate aquatic agriculture to the same extent as other agriculture. (NRS 561.301) Under existing regulations, the Department will issue a certified producer certificate to certain producers of agricultural products. (NAC 576.300-576.440) This regulation includes aquaculture products, eggs and honey among the agricultural products for which a producer may obtain a certified producer's certificate. **Section 1** of this regulation revises the definition of "agricultural product" to include crops grown in the soil or any other medium, aquaculture products, eggs and honey. **Section 9** of this regulation adds fees that the Department will charge for certain actions related to a certified producer's certificate for an aquaculture product. **Sections 2-8 and 10-12** of this regulation make conforming changes.

Section 1. NAC 576.310 is hereby amended to read as follows:

576.310 "Agricultural product ~~[of the soil] means a~~ " *includes, without limitation:*

- 1. A* crop grown in soil or any other medium ~~[]~~;

2. An aquaculture product produced by aquatic farming, including, without limitation, fish, plants, crustaceans, amphibians, turtles, microorganisms or any product derived from any such fish, plant, crustacean, amphibian, turtle or microorganism;

3. Eggs; and

4. Honey.

Sec. 2. NAC 576.320 is hereby amended to read as follows:

576.320 “Certified producer’s certificate” means a written document issued by the Department pursuant to NAC 576.330, 576.340 and 576.350 which indicates that the holder of the certificate has obtained certification that he or she is the actual producer of each agricultural product ~~{of the soil}~~ which is listed on the certificate.

Sec. 3. NAC 576.325 is hereby amended to read as follows:

576.325 A person who produces only organic agricultural products ~~{of the soil}~~ is exempt from the requirements set forth in NAC 576.300 to 576.440, inclusive.

Sec. 4. NAC 576.330 is hereby amended to read as follows:

576.330 1. To obtain a certified producer’s certificate, a person must submit to the Department, on a form prescribed by the Department, a separate application for each ~~{plot of land}~~ *site* on which an agricultural product ~~{of the soil}~~ will be ~~{grown.}~~ *produced*. For the purposes of this section, a separate application is required for each ~~{plot of land}~~ *site* on which an agricultural product ~~{of the soil}~~ will be ~~{grown}~~ *produced*, if the ~~{plot of land}~~ *site* is not contiguous to any other ~~{plot of land}~~ *site* on which an agricultural product ~~{of the soil}~~ will be ~~{grown.}~~ *produced*.

2. The application must include, without limitation:

- (a) The name, mailing address and telephone number of the applicant;
- (b) The physical address of the ~~{plot of land}~~ *site* on which each agricultural product ~~{of the soil}~~ will be ~~{grown;}~~ *produced;*
- (c) A list of each agricultural product ~~{of the soil}~~ for which the applicant seeks certification and anticipates that he or she will ~~{grow}~~ *produce* and offer for sale during the 12 months for which the certificate is valid;
- (d) The estimated yield of each agricultural product ~~{of the soil}~~ listed on the application;
- (e) The harvest season of each agricultural product ~~{of the soil}~~ listed on the application;
- (f) If an agricultural product ~~{of the soil}~~ is to be stored, the length of time the product will be stored;
- (g) If any agricultural product ~~{of the soil}~~ produced by the applicant is in storage at the time of application, the physical address at which the product is being stored and the amount of the product that is being stored at that location at the time of application;
- (h) The total area of the ~~{plot of land which is under cultivation}~~ *site* for each agricultural product ~~{of the soil}~~ listed on the application, designated in terms of acres or square feet, as applicable;
- (i) A detailed map that indicates the location of the ~~{plot of land}~~ *site* on which any agricultural product ~~{of the soil}~~ listed pursuant to paragraph (c) will be ~~{grown;}~~ *produced;* and
- (j) The fee set forth in NAC 576.371 for the application and the inspection required pursuant to NAC 576.340.

3. Except as otherwise provided in this subsection, an application must be submitted to the Department at least 30 days before the harvest of an agricultural product ~~{of the soil}~~ that is listed

on the application. The Department may, in its discretion, waive the requirements set forth in this subsection.

Sec. 5. NAC 576.340 is hereby amended to read as follows:

576.340 Except as otherwise provided in NAC 576.353 or 576.356, before approving an application for a certified producer's certificate, an amended certified producer's certificate or a renewed certified producer's certificate, the Department, or an authorized representative of the Department, will inspect the ~~plot of land~~ *site* that is indicated on the application to verify the production of each agricultural product ~~of the soil~~ that is listed on the application or the existence in storage of each agricultural product ~~of the soil~~ that is listed on the application which has been harvested, or both.

Sec. 6. NAC 576.350 is hereby amended to read as follows:

576.350 1. Upon approval of an application, the Department will issue a certified producer's certificate to the applicant.

2. A certified producer's certificate must list each agricultural product ~~of the soil~~ that is produced by the holder of the certificate.

3. A certified producer's certificate is valid for 12 months after the date on which the certificate is issued.

4. The holder of a certified producer's certificate may apply to the Department to:

(a) Amend the certificate pursuant to NAC 576.353; and

(b) Renew the certificate pursuant to NAC 576.356.

Sec. 7. NAC 576.353 is hereby amended to read as follows:

576.353 1. If the holder of a certified producer's certificate wishes to add an agricultural product ~~{of the soil}~~ to those listed on the certificate, he or she must submit to the Department, on a form prescribed by the Department, a separate application to amend the certificate for each ~~{plot of land} site~~ on which an additional agricultural product ~~{of the soil}~~ will be ~~{grown.}~~ *produced*. For the purposes of this section, a separate application is required for each ~~{plot of land} site~~ on which an additional agricultural product ~~{of the soil}~~ will be ~~{grown}~~ *produced* if the ~~{plot of land} site~~ is not contiguous to any other ~~{plot of land} site~~ on which an agricultural product ~~{of the soil}~~ is ~~{grown}~~ *produced* that is listed on the certified producer's certificate.

2. Except as otherwise provided in this subsection, if a holder of a certified producer's certificate wishes to amend the certificate pursuant to subsection 1, the holder must submit an application to amend the certificate at least 30 days before the harvest of any additional agricultural product ~~{of the soil.}~~ The Department may, in its discretion, waive the requirements set forth in this subsection.

3. The application must include, without limitation:

(a) The information required pursuant to subsection 2 of NAC 576.330;

(b) An identification of each additional agricultural product ~~{of the soil}~~ that will be ~~{grown.}~~ *produced*; and

(c) A detailed map that indicates the location of the ~~{plot of land} site~~ on which any additional agricultural product ~~{of the soil}~~ will be ~~{grown.}~~ *produced*.

4. The Department may waive the inspection of the ~~{plot of land} site~~ that is indicated on the application to amend a certificate, which is required pursuant to NAC 576.340 to verify the production of each additional agricultural product ~~{of the soil.}~~ unless any agricultural product

~~{of the soil}~~ included on the application is substantially different from the agricultural products ~~{of the soil}~~ listed on the original certificate.

5. If the Department approves an application to amend a certified producer's certificate, the Department will issue an amended certificate which lists the additional agricultural products ~~{of the soil}~~ that will be ~~{grown}~~ *produced*. The amended certificate expires on the expiration date of the original certificate.

Sec. 8. NAC 576.356 is hereby amended to read as follows:

576.356 1. The holder of a certified producer's certificate may renew the certificate every 12 months by submitting to the Department, on a form prescribed by the Department, an application to renew the certificate.

2. Except as otherwise provided in this subsection, if a holder of a certified producer's certificate wishes to renew the certificate, the holder must submit the application for renewal at least 30 days before the certified producer's certificate expires. The Department may, in its discretion, waive the requirements set forth in this subsection.

3. The Department may waive the inspection of the ~~{plot of land}~~ *site* that is indicated on the application to renew a certificate, which is required pursuant to NAC 576.340 to verify the production of each agricultural product , ~~{of the soil}~~ unless:

(a) The designation of the ~~{plot of land}~~ *site* on which an agricultural product is ~~{grown}~~ *produced* that is listed on the renewal application is different from the ~~{plot of land}~~ *site* designated on the original certificate; or

(b) Any agricultural products ~~{of the soil}~~ included on the renewal application are substantially different from the agricultural products ~~{of the soil}~~ listed on the original certificate.

4. The application for renewal must include:

- (a) The information required pursuant to subsection 2 of NAC 576.330; and
- (b) The fee for renewal set forth in NAC 576.371.

5. Upon approval of the application for renewal, the Department will issue a renewed certified producer's certificate to the applicant. A renewed certificate is valid for 12 months after the date on which the renewal certificate is issued.

Sec. 9. NAC 576.371 is hereby amended to read as follows:

576.371 The Department will charge and collect the following nonrefundable fees:

1. For *any agricultural product except an aquaculture product*:

(a) For an application for an initial certified producer's certificate and the inspection required pursuant to NAC 576.340..... \$50.00

~~(2)~~ (b) For the renewal of a certified producer's certificate without an inspection..... \$30.00

~~(3)~~ (c) For the inspection of any ~~plot of land~~ site concerning an agricultural product ~~of the soil~~ *except an aquaculture product* for which a person seeks a certified producer's certificate which is conducted after the initial inspection has been completed and for any other additional inspections:

~~(a)~~ (1) For each hour of inspection, calculated from the assigned office of the inspector, per hour..... \$30.00

~~(b)~~ (2) For mileage, per mile..... \$0.40

2. For an aquaculture product:

(a) For an application for an initial certified producer's certificate and the inspection required pursuant to NAC 576.340..... **\$75.00**

(b) For the renewal of a certified producer's certificate without an inspection.....\$30.00

(c) For the inspection of any site concerning an aquaculture product for which a person seeks a certified producer's certificate which is conducted after the initial inspection has been completed and for any other additional inspections:

(1) For each hour of inspection, calculated from the assigned office of the inspector, per hour.....\$50.00

(2) For mileage, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax calculated from the assigned office of the inspector.

Sec. 10. NAC 576.400 is hereby amended to read as follows:

576.400 A person shall not use a certified producer's certificate to claim or imply that the person is the producer of an agricultural product ~~{of the soil}~~ which he or she did not produce.

Sec. 11. NAC 576.410 is hereby amended to read as follows:

576.410 The Director may issue a written order to stop the sale of an agricultural product ~~{of the soil}~~ if that product is advertised, sold, labeled or otherwise represented as certified in violation of NAC 576.300 to 576.440, inclusive. A person shall not sell an agricultural product ~~{of the soil}~~ for which the Director has issued a written order to stop the sale pursuant to this section until the Department determines that the advertising, selling, labeling or other representation of the product complies with NAC 576.300 to 576.440, inclusive.

Sec. 12. NAC 576.440 is hereby amended to read as follows:

576.440 A person:

1. Who is issued a written order to stop the sale of an agricultural product ~~{of the soil}~~ pursuant to NAC 576.410; or
2. Whose certified producer's certificate has been suspended or revoked or has not been renewed pursuant to NAC 576.420,
↳ may request a hearing pursuant to subsection 2 of NRS 561.295.

