

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Amendment of Regulations of the

Nevada Department of Agriculture

LCB File No. R100-20

The Nevada Department of Agriculture will hold a public hearing at 9:00 a.m., on the 8th of December of 2021.

Meeting location: Nevada Department of Agriculture

2300 East St. Louis Ave
Las Vegas, NV 89104
702-668-4590

Video Conference:	Nevada Department of Agriculture	Nevada Department of Agriculture
	405 South 21 st St.,	4780 East Idaho Street
	Sparks, NV 89431	Elko, NV 89801
	775-353-3601	775-778-0270

Virtual Meeting Information: <https://us02web.zoom.us/j/81738268429>
Meeting ID: 817 3826 8429
Phone: +1 (669)900-9128
Phone Meeting Passcode: 81738268429

COVID-19 Notice

ALL PERSONS VACCINATED OR UNVACCINATED ATTENDING AT A PHYSICAL LOCATIONS ARE REQUIRED TO WEAR A MASK ACCORDING TO EMERGENCY DIRECTIVE.

*The open meeting law (Nevada Revised Statutes Chapter 241) requires public bodies to conduct their meetings with at least one physical location.

• Under Declaration of Emergency Directive 006, issued March 22, 2020, the physical location requirement has been suspended.

The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapter 565 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of [NRS 233B.0603](#):

1. The need for and the purpose of the proposed regulation or amendment.

This regulation is necessary to:

Sec. 2.1.(a)(I)(II). Revises the fee for an annual horse permit of \$25 to \$35 and revises the fee for a lifetime horse permit of \$50 to \$75. The established fees are necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 2.1.(3). Establishes a travel fee of \$35 to be assessed for each location that a brand inspection is performed to issue an owner, or owners of animals, annual or lifetime horse permits. The establishment of this fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Specifically:

Sec. 2. NAC 565.220 is hereby amended to read as follows:

565.220 1. The Director may issue special permits in the following specific instances:

(a) Horse permit: The Director may make available an annual or lifetime permit for the movement of any horse that may be used in lieu of a brand inspection if the permittee:

(1) Completes an application on a form provided by the Department . ~~[- and]~~

(2) Pays for each horse:

(I) A fee of ~~[\$25]~~ \$35 for an annual permit; or

(II) A fee of ~~[\$50]~~ \$75 for a lifetime permit.

(3) Pays a \$35 travel fee.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This will not be a temporary regulation.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

Text of the proposed regulation is available on the Department of Agriculture website: www.agri.nv.gov, or by request of a digital or hard copy from animalindustries@agri.nv.gov or 775-353-3709. Requests should specify LCB File No. R100-20

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

Economic effect on business

(a) Both adverse and beneficial effects

Adverse: Businesses or individuals utilizing the brand inspection services provided by the Department will incur increased costs for brand inspection services and obtaining special

permits.

Beneficial: The revised or additional fees collected by the Department will be utilized in recovery of the program operating costs incurred by the Department in administering and performing the statutorily requirements and duties of the program and Department. The collection of revenue which will cover the programs operating expenditures will provide the ability for the program to provide a higher level of service in a timely fashion. Additionally, collection of revenue which offsets expenditures will ensure that the program continues to provide the statutorily required services. Having a program and staffing that can ensure the statutory rules and regulations are followed by all livestock owners across the state would aid in preventing theft and loss of livestock and ensuring fair business practices.

(b) Both immediate and long-term effects

Immediate: The proposed regulation changes would be effective upon adoption, so businesses and individuals would be immediately subject to any resulting effects.

Long-term: The proposed regulation changes will remain in effect unless revised through a new regulatory change in the future.

Economic effect on the public

(a) Both adverse and beneficial effects

Adverse: If businesses or individuals subject to the revised or increased fees included in the regulations have the ability to pass along the increased costs to their customers or clients, the public would pay more for the goods and services provided by such businesses or individuals.

Beneficial: The revised or additional fees for brand inspections through special permits would allow for the Department to have the funding available to provide a higher level of service, staffing and a more responsive program. Having a program and staffing that can ensure the statutory rules and regulations are followed by all livestock owners across the state would aid in preventing theft and loss of livestock and ensuring fair business practices. Increased compliance will benefit the public as a consumer group.

(b) Both immediate and long-term effects

Immediate: The proposed regulations are not anticipated to have an immediate effect on the public.

Long-term: Should businesses or individuals who utilize the Livestock Inspection program be able to pass along to their customers or clients any increased cost of conducting business resulting from the fee amounts included in the proposed regulations, the public would incur higher costs for certain goods and services.

5. The methods used by the agency in determining the impact on a small business.

A digital survey was released via email including a link to the Legislative Counsel Bureau's (LCB) website containing the proposed revised language of NAC564 and NAC565 to industry members and businesses. This survey was opened on 9/11/2020 and closed on 9/25/2020. Due to concerns related to distribution, the survey was reopened from 10/16/2020 and closed on

10/23/2020. The survey was posted to the NDA website on 9/11/2020 and again on 10/16/2020. The survey was sent to 4,785 licensed businesses and interested parties. The survey was also available in hard copy form upon request to the Department. In total the survey received 213 responses.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The agency does not anticipate that its ongoing costs to enforce the proposed revised provisions of NAC 565 will increase as result of the proposed regulations. The agency anticipates one-time costs of approximately \$2,500 to print and mail a notice of the revised regulations to all livestock owners, producers and industry partners currently registered with the program following adoption of the regulation.

7. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations are not duplicative or more stringent than federal, state, or local standards. No other state agencies, nor federal or local jurisdictions have authority or standards regulating Nevada brands, brand inspections or identification of livestock.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to federal law.

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

N/A

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

LCB File No. R100-20: Section 2 establishes a new fee and increases existing fees.

11. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied.)

The proposed regulation is not temporary.

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may participate virtually at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Nevada Department of Agriculture, 405 South 21st Street,

Sparks, NV 89431 or by email to animalindustry@agri.nv.gov . Written submissions must be received by the Nevada Department of Agriculture before 9:00 a.m. on December 8, 2021. 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 may proceed immediately to act upon any written submissions.

Interested persons may obtain a copy of the text of this Notice of Hearing by contacting:

Nevada Department of Agriculture
Division of Animal Industry
405 South 21st Street
Sparks, NV 89431
Phone: 775-353-3709 Email: animalindustry@agri.nv.gov

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to [NRS 233B.0653](#), and on the Internet at **<http://www.leg.state.nv.us/>**. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

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

Notice of this meeting was posted on or before 9 a.m. thirty days before the meeting at the following locations: the Nevada Department of Agriculture website at www.agri.nv.gov and www.notice.nv.gov.

Las Vegas Office:
2300 East St. Louis Ave.
Las Vegas NV 89104-4211
(702) 668-4590
Fax (702) 668-4567



Elko Office:
4780 East Idaho Street
Elko NV 89801-4672
(775) 738-8076
Fax (775) 738-2639

DEPARTMENT OF AGRICULTURE

405 South 21st Street Sparks,
Nevada 89431-5557
Telephone (775) 353-3601 Fax (775) 353-3661
Website: <http://www.agri.nv.gov>

SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 233B.0608

Revised LCB File No. R100-20

PROPOSED AMENDMENTS TO NAC Chapter 565 pertaining to LCB File No. R100-20

1. **A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Nevada Department of Agriculture (NDA) released a digital survey via email including a link to the Legislative Counsel Bureau's (LCB) website containing the proposed revised NAC 565 language to industry members and businesses. This survey was opened on 9/11/2020 and closed on 9/25/2020. Due to concerns related to distribution, the survey was reopened from 10/16/2020 and closed on 10/23/2020. The survey was posted to the NDA website on 9/11/2020 and again on 10/16/2020. The survey was sent by email to 4,785 licensed businesses and interested parties within the State of Nevada. In total the survey received 213 responses. Persons interested in obtaining the survey results and summary may do so by contacting the Division of Animal Industry at 775-353-3709 or by email animalindustry@agri.nv.gov.

Below are the results from the survey:

Q9. What level of impact will the proposed changes to NAC 565 have on your business?

(N=127, 86 respondents skipped question)

- No Impact: 26 respondents (20.47%)
- Insignificant Impact: 9 respondents (7.09%)
- Minor Impact: 21 respondents (16.54%)
- Moderate Impact: 35 respondents (27.56%)
- Major Impact: 20 respondents (15.75%)
- Severe Impact: 16 respondents (12.60%)

Q10. If enacted would the proposed changes to NAC 565 impact your ability to do business?

(N=122, 91 respondents skipped question)

- Yes: 33 (27.05%)
- No: 53 (43.44%)
- Maybe: 36 (29.51%)

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2. The manner in which the analysis was conducted.

The NDA prepared and distributed a Small Business Impact Survey to industry members, industry groups and businesses which are recorded in Department email contact lists generated from brand inspections, brand recordings, agricultural licenses and livestock head tax assessments. A statistical analysis of the survey results was compiled and considered along with comments from respondents. A public workshop will be held to allow for further input from the public and affected community regarding the proposed regulations and how they will impact small businesses. A document to clarify what is currently in statute and to answer common questions will be provided. Comments received during the public workshop will be taken into consideration for possible methods to reduce the economic impact on facilities.

3. The estimated economic effect of the proposed regulation on small business which it is to regulate, including, without limitation:

On the survey, 101 respondents indicated the number of individuals they employed within the state. Per Nevada Revised Statutes (NRS) 223B, the definition of a small business reads "...business conducted for profit which employs fewer than 150 full-time or part-time employees." Only 1 respondent indicated 101 or more employees. With 100 respondents indicating their businesses employed 60 or fewer employees in Nevada, NAC 565 regulation changes regarding inspection of brands almost exclusively apply to small businesses.

Of the 127 respondents, 28.35% indicated proposed changes to NAC 565 would have a major or severe impact on their business. Based upon comments provided in the follow up question "How would changes to NAC 565 impact your ability to do business?" 20.00% of the 40 respondents indicated it would have insignificant to no impact to their business.

The survey asked if the proposed changes to NAC 565 would impact their ability to do business. Of the 122 respondents, 27.05% indicated it would, 43.44% indicated it would not and 29.51% indicated maybe.

While numerous respondents expressed concern over additional state regulations and fee increases, when asked what level of financial impact the proposed changes to NAC 565 would have on their business, 47.54% of the 122 respondents indicated minor to no financial impact.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In considering the establishment of different standards of compliance for small businesses, the agency determined that most of the affected agriculture businesses in Nevada, 99% of businesses that responded to this survey, would fall under the small business category of employing less than 150 employees.

Because of this finding, the agency was not able to pursue reduced or structured fees for small businesses. Without the proposed changes to NAC 565, the Division of Animal Industry would not have adequate resources to perform its mandated functions. Additionally, with less than 1% of businesses qualifying as a non-small business, an increased fee amount assessed to non-small businesses to account for the reduced fees collected from small businesses could not be derived or

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sustained. This practice would result in 1% of the affected agricultural businesses bearing exorbitant fees to subsidize the cost of service to 99% of the remaining businesses. The agency found that such a subsidy would be inappropriate and unjust. For these reasons, the agency did not use this method.

As the agency continues through the regulatory adoption process required under the Nevada Administrative Procedure Act it will consider any other methods to reduce the impact to small businesses that may be proposed.

5. The estimated cost to the agency for enforcement of the proposed regulation.

The agency does not anticipate that its ongoing costs to enforce the proposed changes to NAC 565 will increase. The agency anticipates one-time costs of approximately \$2,500 to print and mail a notice of the revised regulations to all registered livestock producers and industry partners following adoption of the regulation.

6. If the proposed 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.

Beginning in State Fiscal Year 2023, the agency expects to collect approximately \$1,254,500 in fees for livestock inspections, new brand recordings, brand transfers and brand re-recordings. This represents an increase of approximately \$518,838 from the amount collected in State Fiscal Year 2020. The additional revenues will be utilized in hiring 5 full-time state employed brand inspectors and 30 seasonal part-time state employed brand inspectors, which will ensure NDA is meeting and performing all statutory duties. Additional revenues will be utilized in training of Livestock Inspection Program staff; purchasing and implementation of an electronic brand inspector dispatching program; replacement of current and outdated brand inspection iPads with Microsoft Surface Pro notebooks; purchase and implementation of a electronic brand inspection software and equipment for public livestock auctions; and to purchase and maintain new/replacement equipment and vehicles used by the Animal Industry Division Livestock Inspection Program.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulations are not duplicative or more stringent than federal, state or local standards. No other state agencies, nor federal or local jurisdictions have authority or standards regulating the inspection of brands and livestock.

8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

While there will be an impact on small businesses as result of adoption of the proposed regulation, the agency concludes that the regulations are reasonable and necessary for the Division of Animal Industry to perform all statutorily mandated duties. Based upon the survey responses received, the agency can only estimate the percentage of small businesses that may experience a major to severe financial impact as result of the proposed regulations to be approximately 23.77%.

STEVE SISOLAK
Governor

STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

405 South 21st Street Sparks,
Nevada 89431-5557
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Website: <http://www.agri.nv.gov>

JENNIFER OTT
Director

Las Vegas Office:
2300 E. St. Louis Ave.
Las Vegas NV 89104-4211
(702) 668-4590
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Please note that the regulation changes for NAC 564 and NAC 565 correspond with each other.
There will be one workshop encompassing both NAC 564 and NAC 565.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and the information contained in the statement was prepared properly and is accurate.

Jennifer Ott

Digitally signed by Jennifer Ott
DN: cn=Jennifer Ott, o=Nevada Department
of Agriculture, ou=Director,
email=jott@agri.nv.gov, c=US
Date: 2020.12.14 16:55:21 -08'00'

Jennifer Ott
Director
Nevada Department of Agriculture