

LCB File No. R213-05

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

Purpose-To bring the language up to date with current operations & nomenclature.
To change fee structure and amounts for brand inspections.
To change fees charged for Extraordinary Permits.
To define penalty for misuse of special permits.

Authority-NRS 565.070 (Fees)
NRS 565.090 (Special permits)
NRS 565.155 (Enforcement)

Material in ~~{}~~ is omitted, material in *italics* is added

CHAPTER 565 - INSPECTION OF BRANDS

NAC 565.010 Definitions. ([NRS 565.040](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 565.015](#) to [565.085](#), inclusive, have the meanings ascribed to them in those sections.

NAC 565.015 "Administrator" defined. ([NRS 565.040](#)) "Administrator" means the administrator of the division.

NAC 565.021 "Animals" or "livestock" defined. ([NRS 565.040](#)) "Animals" or "livestock" means:

1. All cattle and other members of the bovine species; and
2. All horses, mules, burros, asses and other members of the equine species.

NAC 565.026 "Brand inspection" defined. ([NRS 565.040](#)) "Brand inspection" means a careful examination of each animal offered for such inspection and an examination of the brands, marks or other characteristics thereon and the recording of information on the brand inspection certificate as required.

NAC 565.031 "Brand inspection *clearance* certificate" defined. ([NRS 565.040](#)) "Brand inspection *clearance* certificate" means a certificate on a form prescribed by the division and signed by an authorized agent of the department, listing brands and information as required.

NAC 565.035 "Brand inspector" defined. ([NRS 565.040](#)) "Brand inspector" means a deputy brand inspector *I* or a ~~{district brand inspector}~~ *deputy brand inspector II*.

NAC 565.049 "Department" defined. ([NRS 565.040](#)) "Department" means the state department of agriculture.

NAC 565.051 "Deputy brand inspector" defined. ([NRS 565.040](#)) "Deputy brand inspector" means a part-time, hourly employee who is appointed by the administrator and confirmed by the director and who is responsible for brand inspection activities in local areas under the supervision of a ~~{district brand inspector}~~ *deputy brand inspector II or an agriculture enforcement officer III*.

NAC 565.053 "Director" defined. ([NRS 565.040](#)) "Director" means the director of the department.

NAC 565.055 "District" defined. ([NRS 565.040](#)) "District" means a brand inspection district created by the director pursuant to [NRS 565.040](#).

NAC 565.061 "~~{District brand inspector Agriculture Enforcement Officer III}~~" defined. ([NRS 565.040](#)) "~~{District brand inspector}~~ *Agriculture Enforcement Officer III*" means an ~~{full-time, salaried}~~ employee who:

1. Is under the immediate supervision of the ~~{director}~~ *administrator*;
2. Is certified by the peace officers' standards and training commission pursuant to [NRS 289.550](#);
3. Is assigned supervisory and administrative responsibilities in specified ~~{districts}~~ *geographical areas of the state*; and
4. Supervises all deputy brand inspectors and enforcement officers assigned to his ~~{district}~~ *area*.

NAC 565.065 "Division" defined. ([NRS 565.040](#)) "Division" means the division of livestock identification of the department.

NAC 565.070 "Enforcement officer" defined. ([NRS 565.040](#)) "Enforcement officer" means a brand inspector *II or agriculture enforcement officer II or III* who:

1. Is certified by the peace officers' standards and training commission pursuant to [NRS 289.550](#); and
2. Has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure pursuant to subsection 4 of [NRS 289.290](#).

NAC 565.075 "Livestock movement permit" defined. ([NRS 565.040](#)) "Livestock movement permit" means a permit granted pursuant to paragraph (c) of subsection 1 of [NAC 565.220](#).

NAC 565.080 "Slaughter" defined. ([NRS 565.040](#)) "Slaughter" includes slaughter on a ranch, slaughter for a person's own use and slaughter in a licensed slaughterhouse.

NAC 565.085 "Time and place of change of ownership" defined. ([NRS 565.040](#)) The time and place of "change of ownership" are the time and place where possession of the livestock passes to the new owner.

NAC 565.150 Severability. ([NRS 565.040](#)) The provisions of this chapter are severable. If any provision of this chapter or any application to any person, thing or circumstance is held invalid,

the department intends that such invalidity not affect the remaining provisions or applications to the extent that they can be given effect.

NAC 565.200 Brand inspections: Requirements; places; times. ([NRS 565.040](#))

1. Brand inspections are not required:

(a) If the owner of the animals has a livestock movement permit, the animals are *being* moved within this state and there is no change of ownership or slaughter involved.

(b) For the sale or transportation within this state of dairy breed calves under the age of 1 month.

(c) For the transportation within this state of horses if the horses are accompanied by a current annual or lifetime horse permit or a livestock movement permit.

2. Unless excepted, brand inspections are required:

(a) Before animals are moved out of this state and in all cases where a change of ownership or slaughter is involved.

(b) Before animals are herded or trailed out of this state.

If a deputy brand inspector makes an exception to the requirements of this subsection, he shall immediately report the exception to the ~~[district brand inspector]~~ *agriculture enforcement officer supervising the area*.

3. Animals for slaughter in a district will be inspected at the place of slaughter immediately before slaughter except as otherwise provided in this chapter.

4. Animals being moved out of this state by truck or trailer will be inspected at a site and time designated by the brand inspector.

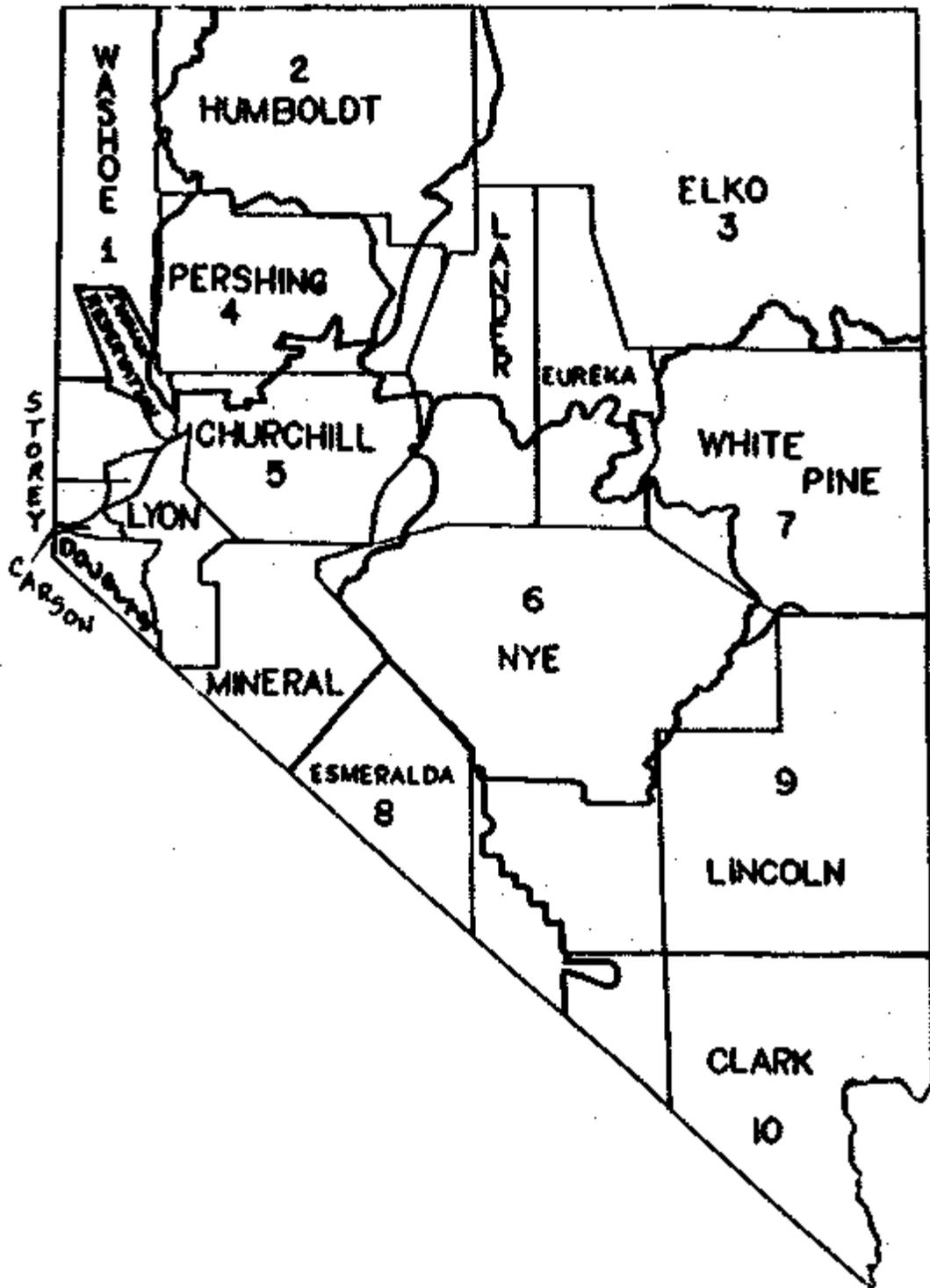
5. Animals on which ownership is being changed will be inspected at a site and time designated by the brand inspector.

6. An owner of animals who intends to herd or trail the animals out of this state must give notice to the brand inspector at least 24 hours before the animals may be herded or trailed out of this state.

7. All brand inspections must be made during daylight hours or with adequate lighting under uncrowded conditions where the brand inspector is satisfied that he can identify all brands, marks, color and sex. Brands and marks on the animals must be recorded by the brand inspector on the brand inspection *clearance* certificate.

NAC 565.210 Brand inspection districts. ([NRS 565.040](#))

1. The areas designated as districts and assigned numbers by the director are those areas and numbers marked on the following map:



2. A copy of the map may be obtained from the State Department of Agriculture, Division of Livestock Identification, ~~[350 Capitol Hill Avenue, Reno, Nevada 89502]~~ or 4780 E. Idaho Street, Elko, Nv. 89801.

NAC 565.220 Special permits. (NRS 565.040, 565.090)

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

(a) Extraordinary permit: The director, subject to ratification by the state board of agriculture, may issue a permit for the movement of livestock across the boundaries of this state if:

(1) The movement of the livestock is for pasturing purposes only.

(2) The permittee is a livestock operation based in the State of Nevada that is located in a county adjoining the county in the state of destination.

(3) The permittee has completed an application on a form provided by the department before March 1 of the year in which the movement of the livestock will occur.

(4) Brand inspections will be performed on all of the livestock leaving this state.

(5) The permittee has paid the following fees for the brand inspection:

(I) For each bull or pair consisting of a cow and calf, ~~{25}~~ 40 cents.

(II) For each yearling animal or weaned calf, ~~{70 cents}~~ 90 cents.

(III) For each calf declared by the permittee to be sold out of this state or not otherwise returned to this state with its mother, ~~{70 cents}~~ 90 cents.

(IV) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, ~~{12}~~ 16 per hour.

(V) For the time necessary for the brand inspector to conduct the inspection, ~~{12}~~ 16 per hour.

(VI) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.

(6) The permittee has notified the brand inspector at least 24 hours before the livestock is scheduled to be moved.

(b) 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:

(1) The permittee completes an application on a form provided by the department; and

(2) Pays for each horse:

(I) A fee of \$15 for an annual permit; or

(II) A fee of \$30 for a lifetime permit.

(c) Livestock movement permit: The director may issue a permit for the movement of livestock within this state that have not been inspected by a brand inspector. A livestock movement permit is required for the movement of livestock across the boundaries of a district. Before moving livestock pursuant to a livestock movement permit, the permittee shall complete a statement on a form provided by the department that includes, without limitation, the number of livestock being moved, a description of the livestock being moved and the destination of the livestock being moved. The permittee shall carry a copy of the completed form during the movement of the livestock. Not more than 10 days after the movement of the livestock is completed, the permittee shall submit a copy of the completed form to the department. A livestock movement permit is not valid for:

(1) The transportation of livestock across the boundaries of this state;

(2) Proof of ownership;

(3) Slaughter;

(4) The transportation of unbranded cattle, except for unbranded cattle that are shipped as pairs or accompanied by proof of brand inspection or other proof of ownership; or

(5) The transportation of calves with brands that are not healed and peeled.

2. The state board of agriculture may establish a reasonable fee for the issuance of a special permit.

3. Misuse of any of the above special permits is a violation of NRS 565.090 and may result in revocation of the permit by the Director.

NAC 565.230 Fees. (NRS 565.040, 565.070)

1. Except as otherwise provided in subsections 2, ~~[3 and 4]~~ ***through 7***, and NAC 565.220, an owner of livestock must pay the following fees for the brand inspection of the livestock:

(a) If the owner has given the brand inspector notice of at least 24 hours ~~[and the inspection takes place at a location designated by the brand inspector]:~~

(1) For the ~~[inspection of 1 to 10 head of livestock, \$9]~~ ***first head of livestock inspected, \$10;*** and

(2) For the inspection of ~~[11 or more head of livestock, 90 cents]~~ ***each additional head of livestock, \$1*** per head.

~~[(b) If the owner did not give the brand inspector notice of at least 24 hours or the inspection takes place at a location designated by the owner, in addition to the fees set forth in paragraph (a):~~

~~(1) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, \$12 per hour.~~

~~(2) For the time necessary for the brand inspector to conduct the inspection, \$12 per hour.~~

~~(3) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.]~~

2. An owner of horses must pay the following fees for the brand inspection of the horses:

(a) If the owner has given the brand inspector notice of at least 24 hours and the inspection takes place at a location designated by the brand inspector:

(1) For the first horse inspected, \$10; and

(2) For each additional horse inspected, ~~[\$2]~~ ***5*** each.

3. If an owner of cattle needing brand inspection services pre-arranges, with the consent of the brand inspector that a quality inspection can be performed within the district, to bring the cattle to the inspector or to the office of the Division of Livestock Identification, the owner shall pay a fee of \$1 per head for the brand inspection.

4. If an owner of horses or livestock did not give the brand inspector notice of at least 24 hours for an inspection, or if an inspection or re-inspection is necessary due to a violation of the provisions of Chapter 564, 565, 566, or 569; or, if the inspection is performed on a state designated holiday; the owner, in addition to the fees set forth in paragraphs 1(a) & 2(a) above shall pay:

(a) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, \$16 per hour.

(b) For the time necessary for the brand inspector to conduct the inspection, \$16 per hour.

(c) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.

~~[(b) If the owner did not give the brand inspector notice of at least 24 hours or the inspection takes place at a location designated by the owner, in addition to the fees set forth in paragraph (a):~~

~~(1) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, \$12 per hour.~~

~~(2) For the time necessary for the brand inspector to conduct the inspection, \$12 per hour.~~

~~(3) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.]~~

~~[3]5.~~ If a brand inspector has been assigned to inspect the brands of livestock at a sale conducted by a livestock commission company and the sale is conducted on a weekly basis, the amount of the brand inspection fee is:

(a) For cattle, ~~[90 cents]~~ *one dollar* per head of livestock consigned.

(b) For horses:

(1) Ten dollars for the first horse consigned by the owner; and;

(2) ~~[Two]~~ *five* dollars for each additional horse consigned by the same owner.

~~[4]6.~~ If a brand inspector has been assigned to a special sale of horses or bulls, the amount of the brand inspection fee is, in addition to the fees set forth in paragraphs (a) and (b) of subsection ~~[3]4:~~

(a) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, ~~[\$12]~~ *\$16* per hour.

(b) For the time necessary for the brand inspector to conduct the inspection, ~~[\$12]~~ *\$16* per hour.

(c) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.

The fees set forth in this subsection must be paid on all consigned cattle and horses regardless of whether the cattle or horses are actually sold at the special sale.

7. Inventory inspections, excluding those performed for change of ownership or transportation. Owners of livestock requesting inventory inspections shall pay the following fees:

a) 40 cents per head.

b) For the travel time of the brand inspector from his duty station to the place of inspection and from the place of inspection to his duty station, \$16 per hour.

(c) For the time necessary for the brand inspector to conduct the inspection, \$16 per hour.

(d) For the mileage of the brand inspector to reach the place of inspection from his duty station and to reach his duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this state.

~~[5]8.~~ All fees collected pursuant to this section must be forwarded biweekly to the department along with the original brand inspection certificate covering the inspection for which the fees were collected, unless prior arrangements have been made with the ~~[district brand inspector]~~ *administrator*.

~~[6]9.~~ If livestock is consigned to a livestock commission company within this state, the only time at which a fee may be collected for brand inspection is when the change of ownership of the livestock occurs.

NAC 565.300 Recording brands; identifying prior brands; violations; unbranded calves. **[\(NRS 565.155\)](#)**

1. The current and immediate prior brands on an animal and additional brands at the discretion of the brand inspector must be recorded by the brand inspector on the brand inspection certificate. If

the brand inspector cannot clearly identify the brands, he shall clip the hair or take other measures as necessary to identify the animal.

2. If the ownership of the animal cannot be determined, the brand inspector shall impound the animal for further investigation.

3. The brand inspector shall check prior transactions by checking brand inspection records or consulting with the owners of prior brands to determine that the transactions were legal.

4. Suspected violators must be reported immediately to the ~~district brand inspector~~ *enforcement officer responsible for that area*.

5. A calf being sold or shipped without brands or without brands and marks healed and peeled must be inspected while paired with its mother immediately before sale or shipment. In the case of unbranded leppy calves or freshly branded calves:

(a) A statement signed by the producer verifying ownership of these calves must be written on the brand inspection certificate at the time of inspection; or

(b) An affidavit of ownership must be completed by the producer or brand inspector and attached to the original brand inspection certificate.

NAC 565.310 Enforcement; conflicts of interest. (NRS 565.155)

1. The director shall train, equip and instruct ~~district brand inspectors and~~ enforcement officers to stop vehicles carrying animals and verify that the transportation of animals complies with all regulations. The division may inspect any animal at any location at any time when there is probable cause to believe that a theft may be in progress, or strays or the natural drifting of neighboring herds of animals may cause commingling of the animals or at any time a brand inspection may be in the best interest of the industry.

2. No employee may perform a brand inspection on any animal owned or to be purchased by himself, his employer, any member of his household or his immediate family, or on any animal in which he, his employer, a member of his household or a member of his immediate family has any financial interest.

SMALL BUSINESS DISCLOSURE

Pursuant to 233B, Nevada Administrative Procedures Act:

Proposed amendments to NAC 565, 573, & 576 pertaining to fees for livestock brand inspections and updating language (565), license fees for public livestock auctions (573), and license fees for livestock & farm product dealers, brokers, commission merchants, buyers, and their agents.

The Administrator of the Department of Agriculture's Division of Livestock Identification and Agriculture Enforcement has recently met with industry representatives at the annual meetings of the Nevada Cattlemen's Association, Nevada Farm Bureau Federation and the State Board of Agriculture in regard to these proposed changes.

- 1) Do these proposed amendments impose a direct and significant economic burden upon small business? **No**
- 2) Do these proposed amendments restrict the formation, operation or expansion of a small business? **No**

Further comments will be solicited during the workshop and public hearings.

The Division has considered numerous methods of cost cutting to reduce the impact of the proposed fees on its constituency. All viable cost cutting methods short of reducing primary statutory required services have been taken.

There will be no additional cost to the agency for enforcement of the proposed regulation changes.

It is estimated that the proposed regulation changes addressing fees will result in an annual increase in the Division's revenue of approximately \$85,000, which will be spent for salaries of Deputy Brand Inspectors currently employed and their corresponding operating expenses. Any other available revenues will be spent upgrading the efficiency of the Division's current methods of providing service, accounting, and tracking livestock and registering brands and marks.