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## **PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE**

**LCB File No. R101-20 and LCB File No. R100-20**

DIVISION OF ANIMAL INDUSTRY

### **NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION**

The Nevada Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, Nevada, 89431, is proposing the Amendment of regulations pertaining to Chapter 564 and Chapter 565 of the Nevada Administrative Code (NAC). A workshop has been set for:

**Date:** Tuesday, May 18, 2021

**Time:** 9:00 AM PDT

**Location:** This meeting will be held virtually via Webex, which allows participation by computer or telephone.\* **Remote Meeting Information:**

To join by Webex, click on the URL and enter the meeting number and password when prompted:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m3dd0525643271f1352e38113a036a083>

Meeting Number: 142 027 1906

Password: dsFt4hYWp63 (37384499 from phones and video systems)

To join by telephone, call the phone-in number and enter the access code when prompted.

Phone-in Access #: 1-408-418-9388 United States Toll

Access Code: 142 027 1906

If you need help using Webex, visit <http://help.webex.com>.

#### **\*COVID-19 Notice**

ALL PERSONS WISHING TO ATTEND THE MEETING MUST ATTEND VIA WEBEX OR TELEPHONICALLY.

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.

# NOTICE OF SECOND WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

## Agenda

9:00 AM PDT May 18, 2021

**Note:** Items on the agenda may be taken out of the posted order, items may be combined for consideration, and items may be pulled or removed from the agenda.

- I. \*\*Public Comment:** In consideration of others who may wish to provide public comment, please avoid repetition and limit your comment to three (3) minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker.
- II. Overview of Proposed Changes in NAC Chapter 564 and Chapter 565**

The Nevada Department of Agriculture (NDA) will hold a workshop to solicit comments from interested persons on the following general topics that may be addressed in proposed regulations (LCB File No. R101-20 and LCB File No. R100-20)

1. LCB File No. R101-20 includes updates and additions to Nevada Administrative Code (NAC) chapter 564.
  - Existing law authorizes the State Department of Agriculture to establish and collect reasonable fees for certain recording services relating to the branding of animals. (NRS 564.080) Existing regulations establish fees for: (1) recording the temporary use of a brand; (2) recording and rerecording a brand, or a brand and mark, or marks; (3) recording an instrument transferring the ownership of a recorded brand, or brand and mark, or marks; and (4) processing and continuing administration of a security agreement, provisional assignment or legal lien relating to a brand, or brand and mark, or marks of record. (NAC 564.010) This proposed regulation revises such fees.
2. LCB File No. R100-20 includes updates and additions to Nevada Administrative Code (NAC) chapter 565.
  - Existing law sets forth certain circumstances when the owner of animals is required to obtain a brand inspection. (NRS 565.040, 565.090) Section 1 of this regulation clarifies that a brand inspection must be a visual inspection of the animals.
  - Existing law authorizes the State Department of Agriculture to levy and collect a reasonable fee for a brand inspection. (NRS 565.070) Existing regulations set forth the fees for a brand inspection. (NAC 565.230) Section 3 of this regulation: (1) revises such fees; and (2) sets forth the acceptable methods of payment for such fees.
  - Existing law authorizes the Department to establish regulations specifying circumstances under which a permit may be issued authorizing the movement of livestock without a brand inspection. (NRS 565.090) Existing regulations authorize, under certain circumstances: (1) the movement of horses without a brand inspection pursuant to a horse permit; and (2) the movement of livestock without a brand inspection pursuant to a livestock movement permit. (NAC 565.220) Section 2 of this regulation revises the fees for these permits. Section 2 also authorizes the movement of

livestock without a brand inspection pursuant to an event permit to move animals out of this State or across the boundaries of a brand inspection district for use in a rodeo, show, fair or other public exhibition.

- Existing regulations require animals which are consigned to a regular sale or special sale be charged for a brand inspection regardless of whether the animals are sold. (NAC 565.200) Section 1 additionally requires animals consigned to an annual sale be charged for a brand inspection regardless of whether the animals are sold.

**III. \*\*Public Comment:** In consideration of others who may wish to provide public comment please avoid repetition and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker.

#### **IV. Adjourn**

\*\*This item is to receive public comment on any issue, provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Agriculture. No action will be taken on any items raised in the public comment period. At the direction of the Department, public comment may be received prior to action on individual agenda items. Public comment may not be limited based on viewpoint.

A copy of all materials relating to the proposal may be obtained by visiting the Department's website at [agri.nv.gov](http://agri.nv.gov) or by contacting the Animal Industry Division at 775-353-3607 or [animalindustry@agri.nv.gov](mailto:animalindustry@agri.nv.gov). A reasonable fee for copying or postage may be charged. Members of the public who would like additional information about a proposed regulation may contact the Animal Division by email at [animalindustry@agri.nv.gov](mailto:animalindustry@agri.nv.gov).

Persons wishing to make oral comment upon the regulation draft of the Nevada Department of Agriculture may participate at the scheduled workshop. Persons wishing to submit written testimony or documentary evidence may submit the material by emailing [animalindustry@agri.nv.gov](mailto:animalindustry@agri.nv.gov) or by mailing to the following address: Nevada Department of Agriculture, Animal Industry, 405 S. 21<sup>st</sup> ST, Sparks, NV 89431.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Please contact the Department at 775-353-3607 or [animalindustry@agri.nv.gov](mailto:animalindustry@agri.nv.gov) prior to the meeting.

Notice of this meeting was sent to all person's on the Department's mailing list for administrative regulations, posted on or before 9 a.m. fifteen days before the meeting at the following locations: the Nevada Department of Agriculture website at [agri.nv.gov](http://agri.nv.gov), the Nevada Public Notices website at [notice.nv.gov](http://notice.nv.gov), and was sent to the Nevada Legislative Counsel Bureau for posting at <https://www.leg.state.nv.us/App/Notice/A/>.

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

Revised LCB File No. R101-20RP1

#### PROPOSED AMENDMENTS TO NAC Chapter 564 pertaining to LCB File No. R101-20

**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 564 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 sent 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](mailto:animalindustry@agri.nv.gov).

Below are the results from the survey:

Q1. What level of impact will the proposed changes to NAC 564 have on your business? (N=209, 4 respondents skipped question)

- No Impact: 45 respondents (21.53%)
- Insignificant Impact: 6 respondents (2.87%)
- Minor Impact: 44 respondents (21.05%)
- Moderate Impact: 44 respondents (21.05%)
- Major Impact: 43 respondents (20.57%)
- Severe Impact: 27 respondents (12.92%)

Q2. If enacted would the proposed changes to NAC 564 impact your ability to do business? (N=183, 30 respondents skipped question)

- Yes: 53 (28.96%)
- No: 78 (42.62%)
- Maybe: 52 (28.42%)

## **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 the 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 564 regulation changes regarding brands and marks almost exclusively apply to small businesses.

Of the 209 respondents, 33.49% indicated proposed changes to NAC 564 would have a major or severe impact on their business. Based upon comments provided in the follow up question "How would changes to NAC 564 impact your ability to do business?" 13% of respondents indicated it would have insignificant to no impact to their business.

The survey asked if the proposed changes to NAC 564 would impact their ability to do business. Of the 183 respondents, 28.96% indicated it would, 42.62% indicated it would not and 28.42% 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 564 would have on their business, 46.29% of the 175 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 564, 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 sustained. This practice would result in 1% of the affected agricultural businesses bearing exorbitant fees in order 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 564 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 five (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 an 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 branding/identification of 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 25.71%.

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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  
Director  
Nevada Department of Agriculture

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### 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](mailto: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%)



## **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%.

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*Governor*

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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  
Director  
Nevada Department of Agriculture

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

**LCB File No. R101-20**

August 24, 2020

EXPLANATION – Matter in (1) blue bold *italics* is new language in the original NAC; (2) red strikethrough is ~~omitted material~~ in the original NAC; (3) variations of green bold underlining is language proposed to be added in this amendment; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original draft proposed to be retained in this amendment. .

AUTHORITY: §1, NRS 564.025, 564.030, 564.080, 564.110 and 564.120.

A REGULATION relating to animals; revising certain fees relating to the branding of animals; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the State Department of Agriculture to establish and collect reasonable fees for certain recording services relating to the branding of animals. (NRS 564.080) Existing regulations establish fees for: (1) recording the temporary use of a brand; (2) recording and rerecording a brand, or a brand and mark, or marks; (3) recording an instrument transferring the ownership of a recorded brand, or brand and mark, or marks; and (4) processing and continuing administration of a security agreement, provisional assignment or legal lien relating to a brand, or brand and mark, or marks of record. (NAC 564.010) This regulation revises such fees.

**Section 1.** NAC 564.010 is hereby amended to read as follows:

564.010 1. ~~[/The fee for recording/]~~ *To record* the temporary use of a brand pursuant to subsection 3 of NRS 564.025 ~~[is \$30.],~~ *the owner must pay:*

*(a) A nonrefundable application fee of \$35; and*

*(b) A recording fee of \$50 for the period designated by the Department.*

2. ~~[/The fee for recording/]~~ *To record* a brand, or brand and mark, or marks pursuant to NRS 564.040 ~~[or rerecording] [or rerecord a brand, or brand and mark, or marks pursuant to NRS 564.120 [is],~~ *except as otherwise provided in subsection ~~[3]~~ 4,* *the owner must pay:*

*(a) A nonrefundable application fee of \$35; and*

(b) *A recording fee of \$120 for each ~~[4-year]~~ period ~~[.]~~ for which the brand, or brand and*

*mark, or marks are recorded or rerecorded pursuant to subsection 1 of NRS 564.120.*

The *recording* fee must not be prorated for any unused portion of the period for which the brand, or brand and mark, or marks are recorded or rerecorded.

*3. To rerecord a brand, or brand and mark, or marks pursuant to NRS 564.120, except as otherwise provided in subsection 4, the owner must pay:*

*(a) A recording fee of \$120 for each period for which the brand, or brand and mark, or marks are recorded or rerecorded pursuant to subsection 1 of NRS 564.120.*

*The recording fee must not be prorated for any unused portion of the period for which the brand, or brand and mark, or marks are recorded or rerecorded.*

~~[3]~~ *4. ~~[The fee for recording]~~ To rerecord a brand, or brand and mark, or marks that has been*

*deemed abandoned pursuant to subsection 5 of NRS 564.120, the owner must pay the following not later than 1 year after the date of the abandonment:*

*(a) A nonrefundable application fee of \$35,*

*(b) A late fee of \$30; and*

*(c) A recording fee of \$120 for each period for which the brand, or brand and mark, or marks are recorded or rerecorded pursuant to subsection 1 of NRS 564.120.*

*The recording fee must not be prorated for any unused portion of the period for which the brand, or brand and mark, or marks are recorded or rerecorded.*

~~[4.]~~ *5. To record an instrument transferring the ownership of a recorded brand, or brand and mark, or marks pursuant to NRS 564.110 ~~[is]~~, the applicant must pay:*

*(a) A nonrefundable application fee of \$35; and*

*(b) A recording fee of \$120.*

~~[4.] [5.]~~ 6. The fee for processing and continuing administration of a security agreement,

provisional assignment or legal lien relating to a brand, or brand and mark, or marks of record for purposes of NRS 564.110 is ~~[\$35]~~ **\$100** for each period beginning July 1 and ending June 30

of the following year. The fee must not be prorated for any unused portion of the period for which the processing and continuing administration of a security agreement, provisional assignment or legal lien relating to a brand, or brand and mark, or marks of record are required.

**PROPOSED REGULATION OF  
THE STATE DEPARTMENT OF  
AGRICULTURE LCB File No. R100-20**

August 28, 2020

EXPLANATION – Matter in (1) blue bold *italics* is new language in the original NAC; (2) red strikethrough is ~~omitted material~~ in the original NAC; (3) variations of green bold underlining is language proposed to be added in this amendment; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original draft proposed to be retained in this amendment. .

AUTHORITY: §§1 and 3, NRS 565.040 and 565.090; §2, NRS 565.040, 565.070 and 565.090.

A REGULATION relating to animals; revising provisions relating to brand inspections; revising the fees for a brand inspection; setting forth the requirements for obtaining an event permit; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law sets forth certain circumstances when the owner of animals is required to obtain a brand inspection. (NRS 565.040, 565.090) **Section 1** of this regulation clarifies that a brand inspection must be a visual inspection of the animals.

Existing law authorizes the State Department of Agriculture to levy and collect a reasonable fee for a brand inspection. (NRS 565.070) Existing regulations set forth the fees for a brand inspection. (NAC 565.230) **Section 3** of this regulation: (1) revises such fees; and (2) sets forth the acceptable methods of payment for such fees.

Existing law authorizes the Department to establish regulations specifying circumstances under which a permit may be issued authorizing the movement of livestock without a brand inspection. (NRS 565.090) Existing regulations authorize, under certain circumstances: (1) the movement of horses without a brand inspection pursuant to a horse permit; and (2) the movement of livestock without a brand inspection pursuant to a livestock movement permit. (NAC 565.220) **Section 2** of this regulation revises the fees for these permits. **Section 2** also authorizes the movement of livestock without a brand inspection pursuant to an event permit to move animals out of this State or across the boundaries of a brand inspection district for use in a rodeo, show, fair or other public exhibition.

Existing regulations require animals which are consigned to a regular sale or special sale be charged for a brand inspection regardless of whether the animals are sold. (NAC 565.200) **Section 1** additionally requires animals consigned to an annual sale be charged for a brand inspection regardless of whether the animals are sold.

**Section 1.** NAC 565.200 is hereby amended to read as follows:

565.200 1. Brand inspections are not required:

(a) If the owner of the animals has a livestock movement permit ~~§~~*for the animals*, 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.

*(d) If the owner of the animals has an event permit to move animals out of this State or across the boundaries of a brand inspection district for use in a rodeo, show, fair or other public exhibition.*

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 I makes an exception to the requirements of this subsection, he or she shall immediately report the exception to the agricultural enforcement officer II or agricultural enforcement officer III supervising the area where the animals are located.

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 which are consigned to ~~[a]~~ *an annual sale*, regular sale or special sale will be charged for a brand inspection regardless of whether the animals are sold.

7. An owner of animals who intends to herd or trail the animals out of this State must give notice to the ~~[brand inspector]~~ *Division* at least 24 hours before the animals may be herded or trailed out of this State.

8. All brand inspections must be *visual inspections of the animals* made during daylight hours or with adequate lighting under uncrowded conditions where the brand inspector is satisfied that he or she 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.

**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.*

(b) Livestock movement permit: The Director may issue a permit for the movement of livestock within this State. ~~[The fee for a livestock movement permit is \$5 for each permit requested by the permittee.]~~ A livestock movement permit may *only* be used to move livestock that have been branded with the brand of the permittee recorded with the Department pursuant to chapter 564 of NRS but have not been inspected by a brand inspector. A livestock movement

permit is required for the movement of branded livestock across the boundaries of a district unless the livestock have been inspected by a brand inspector. 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, the brands and markings 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 valid for 1 year after the date of issuance.* A livestock movement permit is not valid for:

- (1) The transportation of livestock across the boundaries of this State;
- (2) Proof or change of ownership;
- (3) Slaughter;
- (4) The transportation of unbranded livestock, except unbranded calves and foals traveling as pairs or accompanied by proof of brand inspection or other proof of ownership;
- (5) The transportation of calves with brands that are not healed and peeled; or
- (6) Except as otherwise provided in subparagraph (4), any cattle not branded with the brand of the permittee recorded with the Department pursuant to chapter 564 of NRS.

*(c) Event permit: An event permit may be used to move animals out of this State or across the boundaries of a brand inspection district for use in a rodeo, show, fair or other public exhibition in lieu of an individual brand inspection. Before moving animals pursuant to an event permit, the permittee shall complete a statement on a form provided by the Department that includes, without limitation, the number of animals being moved, the destination of the*

*animals and the date or dates, as applicable, that the animals will be moved. An event permit is valid for 1 year after the date of issuance. The Director may issue an event permit if:*

- (1) The permittee completes an application on a form provided by the Department;*
- (2) Each animal is identified using the animal's individual official identification;*
- (3) The permittee holds a health certificate for each animal which identifies the animal by its individual official identification; and*

*(4) The permittee pays:*

*(I) A travel fee of \$35; and*

*(II) A permit fee of \$50 for each permit requested by the permittee.*

2. The State Board of Agriculture ~~[Director]~~ shall establish a reasonable fee for the issuance of a special permit and shall post the amount of the fee on the Internet website maintained by the Department.

3. The Director may revoke a special permit specified in this section if the permit is used for a purpose other than the purpose for which it is issued.

**Sec. 3.** NAC 565.230 is hereby amended to read as follows:

565.230 1. Except as otherwise provided in this section and NAC 565.220, an owner of livestock must pay the following fees for the brand inspection of the livestock if the owner has given the ~~[brand inspector]~~ *Division* notice of at least 24 hours:

- (a) ~~[For the]~~ A travel fee of \$35 for each inspection site; and*
- (b) An inspection fee of ~~[the first]~~ \$1 per head of livestock. ~~[-, \$10; and~~*
- ~~(b) For the inspection of each additional head of livestock, \$1 per head.]~~*

2. An owner of horses must pay the following fees for the brand inspection of the horses if the owner has given the ~~{brand inspector}~~ *Division* notice of at least 24 hours and the inspection takes place at a location designated by the brand inspector:

- (a) ~~{For the first horse inspected, \$10;}~~ *A travel fee of \$35 for each inspection site;* and
- (b) ~~{For}~~ *An inspection fee of \$5 for* each ~~{additional}~~ horse . ~~{inspected, \$3 each.}~~

3. If an owner of cattle requests a brand inspection and, before conducting the brand inspection, the brand inspector determines that a brand inspection of the cattle may be effectively conducted in the district and authorizes the owner of the cattle to bring the cattle to the brand inspector or to ~~{the}~~ *an* office of the Division for the brand inspection, the owner must pay a fee of \$1 for each head of cattle inspected.

4. In addition to any fees required to be paid pursuant to subsection 1 or 2, if an owner of livestock did not give the ~~{brand inspector}~~ *Division* notice of at least 24 hours or a brand inspection or reinspection is required because of a violation of a provision of chapter 564, 565, 566 or 569 of NRS or is conducted on a day that is a state holiday, the owner must pay:

- (a) For the travel time of the brand inspector from his or her duty station to the place of inspection and from the place of inspection to the duty station, ~~[\$16]~~ *\$24* per hour.
- (b) For the time necessary for the brand inspector to conduct the inspection, ~~[\$16]~~ *\$24* per hour.
- (c) For the mileage of the brand inspector to reach the place of inspection from his or her duty station and to reach the duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this State.

5. If a brand inspector has been assigned to inspect the brands of livestock at a regular sale, the amount of the brand inspection fee is ~~[-]~~ *as follows, regardless of whether the livestock is sold:*

(a) For cattle, \$1 per head of livestock consigned.

(b) For horses ~~[-]~~

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

- ~~(2) Three dollars],~~ \$5 for each ~~[additional]~~ horse consigned by the ~~[same]~~ owner.

6. If a brand inspector has been assigned to a special sale *or annual sale* of livestock, the amount of the brand inspection fee is, in addition to the fees set forth in paragraphs (a) and (b) of subsection 5:

(a) For the travel time of the brand inspector from his or her duty station to the place of inspection and from the place of inspection to the duty station, ~~[\$16]~~ \$24 per hour.

(b) For the time necessary for the brand inspector to conduct the inspection, ~~[\$16]~~ \$24 per hour.

(c) For the mileage of the brand inspector to reach the place of inspection from his or her duty station and to reach the 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 livestock regardless of whether the livestock are actually sold at the special sale ~~[-]~~ *or annual sale, as applicable.*

7. If an owner of livestock requests an inventory inspection of the livestock, the owner must pay the following fees:

~~(a)~~ For each head of livestock inspected, 40 cents. ~~[\$1]~~

(b) For the travel time of the brand inspector from his or her duty station to the place of inspection and from the place of inspection to the duty station, ~~[\$16]~~\$24 per hour.

(c) *A travel fee of \$35 for each inspection site.*

(d) For the time necessary for the brand inspector to conduct the inspection, ~~[\$16]~~\$24 per hour.

~~[(d)](e)~~ For the mileage of the brand inspector to reach the place of inspection from his or her duty station and to reach the duty station from the place of inspection, the amount of mileage reimbursement that the brand inspector is entitled to receive from this State.

8. *All fees set forth in this section are due upon completion of the inspection by check or credit card. If payment is not made in full immediately following the inspection, the Department shall bill the responsible party.*

9. All fees collected pursuant to this section must be forwarded biweekly to the Department ~~[together]~~ with the original *or a digital upload of the* brand inspection clearance certificate covering the inspection for which the fees were collected, unless prior arrangements have been made with the Administrator.