

**ADOPTED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R213-05

Effective June 28, 2006

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

AUTHORITY: §§1-11 and 16, NRS 565.040; §12, NRS 565.040; 565.070 and 565.090; §13, NRS 565.040 and 565.070; §§14 and 15, NRS 565.155.

A REGULATION relating to agriculture; defining the terms “agricultural enforcement officer II,” “agricultural enforcement officer III” and “deputy brand inspector II”; revising the definitions of “brand inspector,” “deputy brand inspector” and “enforcement officer”; increasing the fees for the issuance of certain special permits by the Director of the State Department of Agriculture; authorizing the Director to revoke the special permits under certain circumstances; increasing the fees for conducting a brand inspection of livestock; establishing the fees that an owner of livestock must pay for an inventory inspection of his livestock; repealing certain provisions governing district brand inspectors; and providing other matters properly relating thereto.

Section 1. Chapter 565 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Agricultural enforcement officer II” or “agricultural enforcement officer III” means an employee who:*

- 1. Is under the immediate supervision of the Administrator;*
- 2. Is certified by the Peace Officers’ Standards and Training Commission pursuant to NRS 289.550;*
- 3. Has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure pursuant to subsection 3 of NRS 289.290;*

4. Is assigned supervisory and administrative responsibilities in designated geographical areas of this State; and

5. Supervises all deputy brand inspectors and enforcement officers assigned to his geographical area.

Sec. 3. *“Deputy brand inspector II” means a part-time or full-time hourly employee who:*

1. Is appointed by the Administrator and confirmed by the Director;

2. Is certified by the Peace Officers’ Standards and Training Commission pursuant to NRS 289.550;

3. Has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure pursuant to subsection 3 of NRS 289.290;

4. Is responsible for brand inspection activities in local areas under the supervision of an agricultural enforcement officer II or agricultural enforcement officer III; and

5. Supervises each deputy brand inspector I assigned to him.

Sec. 4. NAC 565.010 is hereby amended to read as follows:

565.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 565.015 to 565.085, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 565.026 is hereby amended to read as follows:

565.026 “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 *clearance* certificate as required.

Sec. 6. NAC 565.031 is hereby amended to read as follows:

565.031 “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.

Sec. 7. NAC 565.035 is hereby amended to read as follows:

565.035 “Brand inspector” means a deputy brand inspector *I* or ~~[a district]~~ *deputy* brand inspector ~~[]~~ *II*.

Sec. 8. NAC 565.051 is hereby amended to read as follows:

565.051 “Deputy brand inspector ~~[]~~ *I*” means a part-time, hourly employee who ~~[is]~~ :

- 1. Is* appointed by the Administrator and confirmed by the Director ; and ~~[who is]~~
- 2. Is* responsible for brand inspection activities in local areas under the supervision of ~~[a district brand inspector.]~~ *an enforcement officer.*

Sec. 9. NAC 565.070 is hereby amended to read as follows:

565.070 “Enforcement officer” means a *deputy* brand inspector ~~[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.]~~ *II, agricultural*

enforcement officer II or agricultural enforcement officer III.

Sec. 10. 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, 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 *I* makes an exception to the requirements of this subsection, he shall immediately report the exception to the ~~district brand inspector.~~ *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.

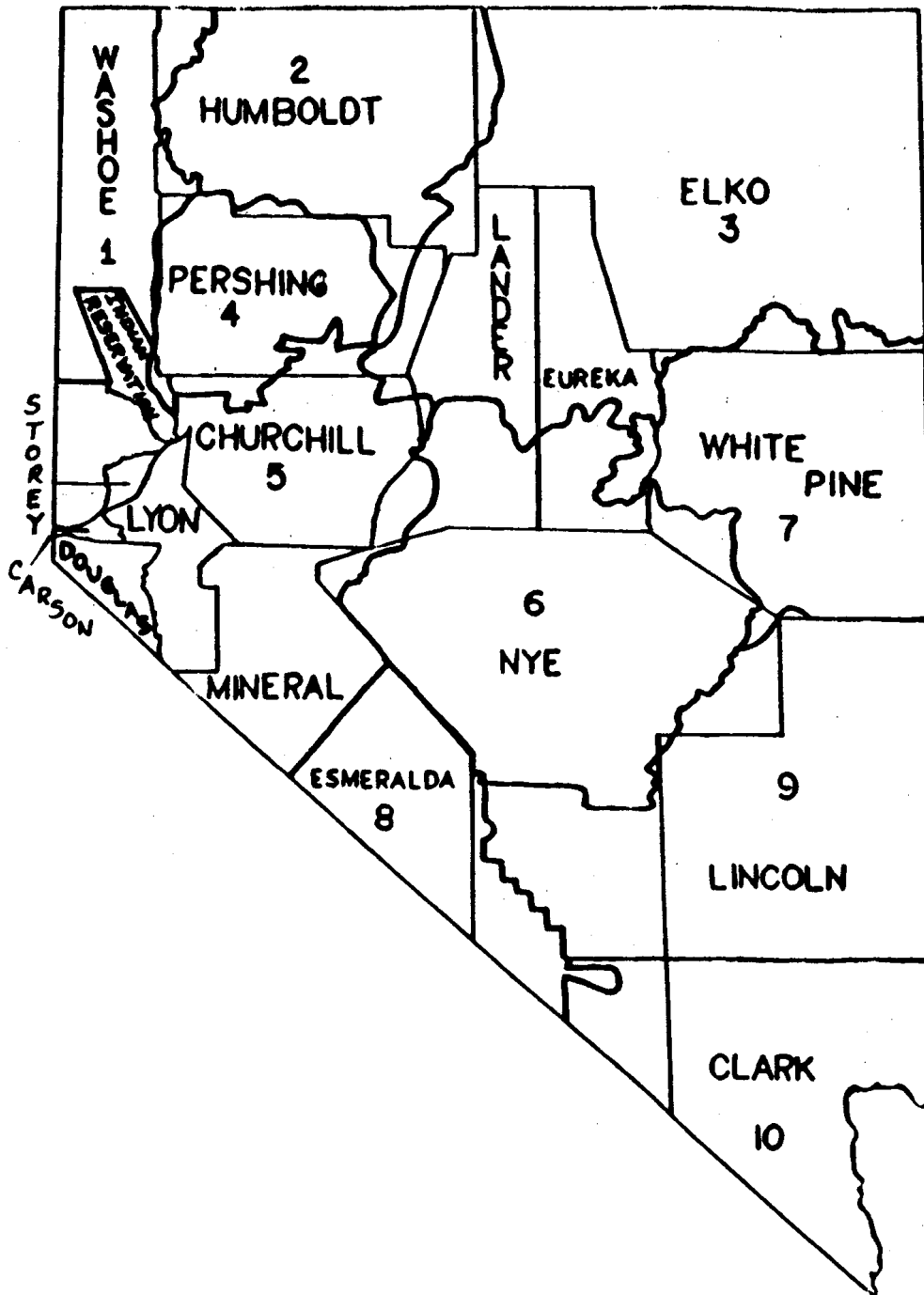
6. An owner of animals who intends to herd or trail the animals out of this State must give notice to the brand inspector at least 24 hours before the animals may be herded or trailed out of this State.

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.

Sec. 11. NAC 565.210 is hereby amended to read as follows:

565.210 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.]~~ *4780 East Idaho Street, Elko, Nevada 89801.*

Sec. 12. 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) 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~~ 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~~ 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. 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. 13. NAC 565.230 is hereby amended to read as follows:

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

~~—(a) If~~ *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)] :~~

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

~~—(2)] \$10; and~~

(b) For the inspection of ~~[11 or more]~~ *each additional* head of livestock, ~~[90 cents]~~ *\$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~~ *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)]~~ *(a)* For the first horse inspected, \$10; and

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

~~— (b) If the] \$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 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 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)] 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 duty station to the place of inspection and from the place of inspection to his duty station, ~~[\$12] \$16~~ per hour.

~~[(2)]~~ (b) For the time necessary for the brand inspector to conduct the inspection, ~~[\$12]~~ \$16 per hour.

~~[(3)]~~ (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.

~~[(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)]~~ \$1 per head of livestock consigned.

(b) For horses:

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

(2) ~~[(Two)]~~ Three 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)]~~ 5:

(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.

~~5.]~~ *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.

(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.

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

~~6.]~~ *Administrator.*

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.

10. As used in this section, “inventory inspection” means a brand inspection of all livestock maintained as inventory by an owner of livestock. The term does not include a brand inspection that is conducted:

(a) For the issuance of a brand inspection clearance certificate; or

(b) To transport any livestock.

Sec. 14. NAC 565.300 is hereby amended to read as follows:

565.300 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 *clearance* 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.~~ *agricultural enforcement officer II or agricultural enforcement officer III who is responsible for the area in which the brand inspection occurs.*

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~~ *the* calves must be written on the brand inspection *clearance* 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 *clearance* certificate.

Sec. 15. NAC 565.310 is hereby amended to read as follows:

565.310 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.

Sec. 16. NAC 565.061 is hereby repealed.

TEXT OF REPEALED SECTION

565.061 “District brand inspector” defined. (NRS 565.040) “District brand inspector” means a full-time, salaried employee who:

1. Is under the immediate supervision of the Director;
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; and
4. Supervises all deputy brand inspectors and enforcement officers assigned to his district.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R213-05**

The State Department of Agriculture adopted regulations assigned LCB File No. R213-05 which pertain to chapter 565 of the Nevada Administrative Code on May 26, 2006.

Notice date: 12/14/2005

Hearing date: 2/16/2006, 2/22/2006, 2/28/2006, 3/1/2006

Date of adoption by agency: 5/26/2006

Filing date: 6/28/2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

A meeting of the Division of Livestock Identification's advisory committee was held in October, 2005 to discuss possible regulations changes. Subsequent meetings were held on the draft regulations at the annual meetings of the Nevada Farm Bureau and Nevada Cattlemen's Association during November, 2005. The draft regulations were submitted and approved as an action item for permission to proceed to workshop and hearings at the State Board of Agriculture meeting in December, 2005. Subsequently, notice of a workshop scheduled on Feb. 16, 2006 and hearings scheduled on Feb. 16 in Elko, 22 in Winnemucca and Fallon, 28 in Ely, and March 1 in Las Vegas on draft regulations were noticed at all Department of Agriculture office locations in the state, and all public libraries in cities and towns not having Dept. of Agriculture offices, on January 13, 2006. Further notifications were placed in the weekly and monthly publications of the Nevada Farm Bureau and Nevada Cattlemen's Association during January. Notice was also provided the State Board of Agriculture and other interested parties on the contact list by way of the Division newsletter, *The Running Iron*. All official notifications contained the provision that written comments would be accepted until March 31, 2006.

A workshop and 5 hearings were held at the above locations on the above dates. Summaries of the hearings are attached. A copy of written comments may be obtained by calling the Nevada Department of Agriculture, Division of Livestock Identification at (775) 738-8076 or by writing the Division at, Nevada Department of Agriculture, 1351 Elm St., Elko, Nv. 89801.

2. Number of persons who:

- a) **Attended each hearing:** Workshop-30. Hearings: Elko-30, Winnemucca-8, Fallon-15, Ely-8, Las Vegas-6.
- b) **Testified at each hearing:** Elko-6, Winnemucca-2, Fallon-7, Ely-3, Las Vegas-1.
- c) **Submitted to the agency, written comments:** Written comments were submitted by the Nevada Live Stock Association, David and Jackie Holmgren; Ole Olson, bonded livestock dealer; Ellen Blair; and Anthony Lesperance.

3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices described and outlined in #1, by postings on the Nevada Department of Agriculture website, by articles in the statewide livestock industry trade papers and newsletters, and presentations at the Nevada Farm Bureau and Nevada Cattlemen's Association's annual meetings. Comments from interested businesses are outlined in the attached workshop and hearings summaries. A copy of the written comments may be obtained as outlined in #1 above.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change or the reasons for making any changes.**

Several changes to the proposed amendments were accepted. Please see attached final draft.

5. **The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**

- a) **Both adverse and beneficial effects; and**

- b) **Both immediate and long-term effects.**

- a) Adverse effects to the industry will be in the form of a slight increase in fees for brand inspection services. However, the impact of inspection fees on the overall budget of a livestock operation is miniscule. The beneficial effects are that the increase in revenue to the Division of Livestock Identification, a fee funded budget, will allow for the continuation of the level of service and protection from theft, introduction of foreign animal diseases, and unfair business practices that the industry demands. There are no effects to the general public.

- b) Both immediate and long-term effects to the industry will be negligible. There are no effects to the general public.

6. **The estimated cost to the agency for enforcement of the adopted regulation.** There is no additional cost to the agency for enforcement of this regulation.

7. **A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

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

There is no federal regulation that regulates the same activity.

- 9. If the 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.**

The proposal includes an increase in an existing fee. The total annual amount the agency expects to collect as a result of this increase is \$60,000. This amount will be used to augment the existing fee based budget to meet the increased cost of salaries and operations.