

**PROPOSED REGULATION OF
THE DIVISION OF AGRICULTURE OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R072-97

August 14, 1997

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

AUTHORITY: §§ 2-22, NRS 565.040, §§ 23 and 24, NRS 565.155.

Section 1. Chapter 565 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *“Administrator” means the administrator of the division.*

Sec. 3. *“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.*

Sec. 4. *“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.*

Sec. 5. *“Brand inspection certificate” means a certificate on a form prescribed by the bureau and signed by an authorized agent of the division, listing brands and information as required.*

Sec. 6. *“Chief” means the chief of the bureau.*

Sec. 7. *“Brand inspector” means a deputy brand inspector or a district brand inspector.*

Sec. 8. *“Bureau” means the bureau of livestock identification of the division.*

Sec. 9. *“Deputy brand inspector” means a part-time, hourly employee who is appointed by the chief and confirmed by the administrator and who is responsible for brand inspection activities in local areas under the supervision of a district brand inspector.*

Sec. 10. *“District” means a brand inspection district created by the administrator pursuant to NRS 565.040.*

Sec. 11. *“District brand inspector” means a full-time, salaried employee who:*

- 1. Is under the immediate supervision of the administrator;*
- 2. Is certified by the peace officers’ standards and training committee pursuant to NRS 481.054;*
- 3. Is assigned supervisory and administrative responsibilities in specified districts; and*
- 4. Supervises all deputy brand inspectors and enforcement officers assigned to his district.*

Sec. 12. *“Division” means the division of agriculture of the department of business and industry.*

Sec. 13. *“Enforcement officer” means a brand inspector who:*

- 1. Is certified by the peace officers’ standards and training committee pursuant to NRS 481.054; 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.*

Sec. 14. *“Livestock movement permit” means a permit granted pursuant to paragraph (c) of subsection 1 of NAC 565.030.*

Sec. 15. *“Slaughter” includes slaughter on a ranch, slaughter for a person’s own use and slaughter in a licensed slaughterhouse.*

Sec. 16. *The time and place of “change of ownership” are the time and place where possession of the livestock passes to the new owner.*

Sec. 17. *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 division intends that such invalidity not affect the remaining provisions or applications to the extent that they can be given effect.*

Sec. 18. NAC 565.010 is hereby amended to read as follows:

565.010 As used in this chapter, unless the context otherwise requires [:

1. “Administrator” means the administrator of the division.
2. “Animals” means all cattle or any member of the bovine species and all horses, mules, burros and asses or any member of the equine species.
3. “Brand inspection” means a careful examination of each animal offered for such inspection and an examination of brands, marks or other characteristics thereon and recording information on the brand inspection certificate as required.
4. “Brand inspection certificate” means a certificate on a form prescribed by the bureau of brand inspection of the division of agriculture and signed by an authorized agent of the division, listing brands and information as required.
5. “Chief” means the chief of the bureau of brand inspection of the division.
6. “Deputy brand inspector” means a part-time, hourly employee appointed by the chief and confirmed by the administrator and who is responsible for brand inspection activity in local areas under the supervision of a district brand inspector.
7. “District” means a point-of-origin brand inspection district in accordance with NRS 565.040.

8. “District brand inspector” means a full-time, salaried employee who is assigned responsibility in a specific brand inspection district or districts, who is under the immediate supervision of the chief and who in turn supervises all brand inspectors and deputy brand inspectors.

9. “Division” means the division of agriculture of the department of business and industry.

10. “Livestock investigator” means a full-time, salaried employee of the division who is under the immediate supervision of the chief and who will be assigned to investigate and document reported or suspected cases of livestock theft, violations or irregularities, and to assist in preparation of these cases for prosecution.

11. “Slaughter” includes slaughter on the ranch and for one’s own use as well as slaughter in a licensed slaughterhouse.

12. The time and place of “change of ownership” are the time and place where possession passes to the new owner.], *the words and terms defined in sections 2 to 16, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

Sec. 19. NAC 565.020 is hereby amended to read as follows:

565.020 1. Brand inspections are not required:

(a) [When] *If the owner of the animals has a livestock movement permit, the animals are moved within [a district] 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. [Brand] *Unless excepted, brand* inspections are required [before] :

(a) *Before* animals are moved out of [a district and also] *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.

3. Animals for slaughter in [the] 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 [the district] *this state* by truck *or trailer* will be inspected [in the corral before loading.] *at a site and time designated by the brand inspector.*

5. Animals on which ownership is being changed will be inspected [at the point where the change of ownership occurs.

6. Written notification of an intent to herd or trail animals out of the district must be given to the district brand inspector before the movement. It is then at the discretion of the district brand inspector to inspect these animals without cost. At no time, however, will animals be moved interstate without a brand inspection, except as otherwise provided in this chapter. The waiver of a brand inspection by the district brand inspector may be given orally. An oral waiver must be followed by a formal written waiver by the district brand inspector. The written waiver must be filed with the chief.

7.] *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 [unloaded or] uncrowded conditions where the brand inspector is satisfied that he can identify all brands, marks, color and sex. Brands and marks on the animals [are to] *must* be recorded by the brand inspector on the brand inspection certificate.

[8. A request for brand inspections must be made to any brand inspector as far in advance as practicable.]

Sec. 20. NAC 565.025 is hereby amended to read as follows:

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

2. A copy of the map may be obtained from the Department of Business and Industry, [Nevada] Division of Agriculture, Bureau of [Brand Inspection,] *Livestock Identification*, 350 Capitol Hill Avenue, [P.O. Box 11100,] Reno, Nevada [89510.] 89502.

Sec. 21. NAC 565.030 is hereby amended to read as follows:

565.030 1. The [chief] *administrator* may issue special permits in the following specific instances : [wherein brand inspections are otherwise required by these regulations:]

(a) Extraordinary permit: The [chief,] *administrator*, subject to [the review of] *ratification by the state* board of agriculture, may issue a permit for the movement of livestock [without a brand inspection upon the showing of unique and extraordinary circumstances.] *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 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 division 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 cents.

(II) For each yearling animal or weaned calf, 70 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.

(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 per hour.

(V) For the time necessary for the brand inspector to conduct the inspection, \$12 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 [chief] administrator may make available [a] *an annual or lifetime* permit for the movement of any horse that may be used in lieu of *a* brand inspection.

(c) [Ranch permit: The chief may issue an annual permit to a specific ranch permitting the interstate and interdistrict movement of any animal without brand inspection on a single contiguous or nearly contiguous ranching operation.

(d) Slaughter permit: The chief may issue a permit to any ranch for on-ranch slaughtering of an animal for consumption on the ranch. The permit must specify a reporting and brand inspection procedure whereby the brand inspector may inspect an animal for slaughter, the hide, or carcass after slaughter or a combination thereof, and must provide for the reporting of the slaughter to the division in order to provide effective control and identification of ownership of the animal as is mutually convenient for the operator and the division.] *Livestock movement*

permit: The administrator 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. 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 **[the permit.**

3. **The chief may issue an annual permit to a specific ranch permitting pasture to pasture movement of an animal at a cost of 50 percent of the established brand inspection fee. As used in this subsection, “pasture to pasture” means within this state only.] a special permit.**

Sec. 22. NAC 565.040 is hereby amended to read as follows:

565.040 1. *Except as otherwise provided in subsections 2, 3 and 4, and NAC 565.030, 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, \$7; and

(2) For the inspection of 11 or more head of livestock, 70 cents 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, \$7; and

(2) For each additional horse inspected, \$1 each.

(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. 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, 70 cents per head of livestock consigned.

(b) For horses:

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

(2) *One dollar for each additional horse consigned by the same owner.*

4. *If a brand inspector has been assigned to 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:*

(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 per hour.*

(b) *For the time necessary for the brand inspector to conduct the inspection, \$12 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. All fees collected *pursuant to this section* must be forwarded [**promptly**] *biweekly* to the division 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.

[2.] 6. When *livestock is* consigned to a livestock commission company [, **only one fee shall be collected for each movement; that is, cattle moving from one district to another district to be sold in the second district through a livestock commission company must be inspected before loading and again**] *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. [**The second inspection must be a verification that the cattle are the same as covered on the certificate for the first inspection. There must be no charge for the second inspection.**]

Sec. 23. NAC 565.050 is hereby amended to read as follows:

565.050 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 [district] 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 [chief.] *district brand inspector.*

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

(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.*

Sec. 24. NAC 565.060 is hereby amended to read as follows:

565.060 1. The [chief] *administrator* 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 of brand inspection] *bureau* 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 [or personal interest.

3. Any person, firm or corporation violating any of the provisions of these regulations is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law.

4. These regulations and their various portions are severable. Should any portion thereof be declared invalid or unconstitutional, it shall not affect any other portion.] *interest.*