

**ADOPTED REGULATION OF THE DIRECTOR OF THE STATE**

**DEPARTMENT OF AGRICULTURE**

**LCB File No. R142-10**

Effective December 30, 2011

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

AUTHORITY: §1, NRS 564.030 and 564.080; §§2-8, NRS 565.040; §9, NRS 565.040, 565.070 and 565.090; §10, NRS 565.040 and 565.070.

A REGULATION relating to the branding of livestock; increasing certain fees for recording or rerecording a brand; requiring an owner of animals consigned to a regular sale or special sale to be charged for a brand inspection regardless of whether the animals are sold; increasing the fees for certain annual and lifetime permits for the movement of horses; amending certain provisions relating to a livestock movement permit; requiring the amount of the fee for a special permit to be posted on the Internet website maintained by the State Department of Agriculture; amending certain provisions regarding the regular sale and special sale of livestock; and providing other matters properly relating thereto.

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

564.010 1. The fee for recording the temporary use of a brand pursuant to subsection 3 of NRS 564.025 is ~~[\$25.]~~ *\$30.*

2. The fee for recording a brand, or brand and mark, or marks pursuant to NRS 564.040 or rerecording a brand, or brand and mark, or marks pursuant to NRS 564.120 is ~~[\$100]~~ *\$120* for each 4-year period. The 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. The fee for recording an instrument transferring the ownership of a recorded brand, or brand and mark, or marks pursuant to NRS 564.110 is ~~[\$100.]~~ *\$120.*

4. 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 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.

**Sec. 2.** Chapter 565 of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this regulation.

**Sec. 3.** *“Inventory inspection” means a brand inspection of all livestock maintained as inventory by an owner of livestock.*

**Sec. 4.** *“Public livestock auction” has the meaning ascribed to it in NRS 573.010.*

**Sec. 5.** *“Regular sale” means a sale conducted by the operator of a public livestock auction during a day set forth in a license issued to the operator by the Department pursuant to NRS 573.050.*

**Sec. 6.** *“Special sale” means a sale conducted by the operator of a public livestock auction that is held on a day:*

*1. Which is not set forth in a license issued to the operator by the Department pursuant to NRS 573.050; and*

*2. For which the operator has obtained approval from the Director pursuant to NRS 573.170.*

**Sec. 7.** NAC 565.075 is hereby amended to read as follows:

565.075 “Livestock movement permit” means a permit granted pursuant to paragraph ~~(e)~~ *(b)* of subsection 1 of NAC 565.220.

**Sec. 8.** 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 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 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 at least 24 hours before the animals may be herded or trailed out of this State.

~~[7.]~~ 8. All brand inspections must be 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. 9.** 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, 40 cents.~~

~~——(II) For each yearling animal or weaned calf, 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, 90 cents.~~

~~————(IV) 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 per hour.~~

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

~~————(VI) 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.~~

~~————(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 the permittee:

(1) Completes an application on a form provided by the Department; and

(2) Pays for each horse:

(I) A fee of ~~[\$15]~~ \$25 for an annual permit; or

(II) A fee of ~~[\$30]~~ \$50 for a lifetime permit.

~~(e)~~ (b) Livestock movement permit: The Director may issue a permit for the movement of livestock within this State . ~~[that]~~ *A livestock movement permit may 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 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 ~~{cattle,}~~ *livestock* , except ~~{for}~~ unbranded ~~{cattle that are shipped}~~ *calves and foals traveling* 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 ~~{}~~ ; *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.*

2. The State Board of Agriculture ~~{may}~~ *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. 10.** 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 notice of at least 24 hours:

(a) For the inspection of the first 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 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; and

(b) 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 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, the inspection takes place at a location designated by the owner 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 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 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 , ~~[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, \$1 per head of livestock consigned.
- (b) For horses:
  - (1) Ten dollars for the first horse consigned by the owner; and
  - (2) Three dollars for each additional horse consigned by the same owner.

6. If a brand inspector has been assigned to a special sale of ~~[horses or bulls,]~~ *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 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 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 ~~[cattle and horses]~~ *livestock* regardless of whether the ~~[cattle or horses]~~ *livestock* are actually sold at the special sale.

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 or her duty station to the place of inspection and from the place of inspection to the 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 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 collected pursuant to this section must be forwarded biweekly to the Department 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 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.]~~

## NOTICE OF ADOPTION OF REGULATION

The Nevada Department of Agriculture adopted regulations assigned LCB File No. R-142-10 which pertain to chapter 564 of the Nevada Administrative Code on August 30, 2011. A copy of the regulation as adopted is attached hereto.

### INFORMATIONAL STATEMENT LCB File Number: R-142-10 NAC 564.010

1. A description of how public comment was solicited. Summary of public response. An explanation of how other interested persons may obtain a copy of the summary;
  - a) Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of brand inspections as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDOA) [www.agri.state.nv.us](http://www.agri.state.nv.us), mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture 405 South 21 <sup>st</sup> Street Sparks, NV 89431-5566	Nevada Department of Agriculture 2150 Frazer Avenue Sparks, NV 89431
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Nevada Department of Agriculture 2300 McLeod Street Las Vegas, NV 89104-4314	Nevada Department of Agriculture 4780 E. Idaho Street Elko, NV 89801-4672
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- b) Public response was concern with state line operations and ability to manage ranch without being hindered by a brand inspection law that is enforced to the letter.
  - c) Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture  
Attn: Jodi Protopappas, Assistant to Director  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation;

**Workshop: July 20, 2011**  
Number in attendance: 12  
Number testifying: 3

Written statements submitted: 0

**Hearing: August 30, 2011**

Number in attendance: 8

Number testifying: 0

Written statements submitted: 0

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

a) Comments were solicited from affected businesses in the same manner as they were solicited from the public.

b) Concerns with the crossing of state lines.

c) Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture

Attn: Dawn Rafferty, Plant Industry Division

405 South 21<sup>st</sup> Street

Sparks, NV 89431

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. The statement should also explain the reasons for making any changes to the regulation as proposed.

The permanent regulation was adopted on August 30, 2011 with approval from the Board of Agriculture with no changes.

5. The estimated economic effect of the regulation on businesses which it is to regulate and on the public. Stated separately:

a) Adverse Effects:

The fees will increase cost to livestock owners. There is no adverse effect on the public.

b) Beneficial effects:

Benefits industry by utilizing fees to pay time and mileage to deputy inspectors which helps insure we are able to meet industry inspection needs for marketing livestock

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

There is no additional cost to agency for enforcement of the proposed regulation.

7. A description of any regulations of other state or government agencies which 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 which regulates the same activity, a summary of those provisions.

There are no provisions that are more stringent than a federal regulation.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The revised regulation increases existing fees. It is estimated that the agency will collect approximately \$ 112,875.00 annually. The increased fees will help support rising operating costs.