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

**LCB File No. R099-20P
May 24, 2021**

PROPOSED AMENDMENTS TO NAC CHAPTER 587 PERTAINING TO LCB FILE NO. R099-20P

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.

A digital survey was distributed, via email, to a list of licensed nurseries, livestock commercial scale operations, certified producers (hemp, seed, produce, weed-free), public meeting notice request contacts, the Nevada Farm Bureau, the Nevada Cattlemen's Association, the Nevada Cattlewomen's Association, and the Nevada Agriculture Economic Outlook Group. Participants issued the survey were also notified of the opportunity to receive a hard copy of the survey by contacting the Nevada Department of Agriculture (NDA). The survey was open from January 15, 2021 to February 1, 2021. Out of 1,400 recipients, 29 responded to the survey.

- Survey responses for fee-based services anticipated to be utilized were left blank by three respondents, but for those that responded, the results were as follows:
 - Inspection and certification at point of shipping, 75%
 - Certified weed-free inspection of forage, gravel, or other products, 25%
 - Phytosanitary inspections in the field per acre, 12.50%
 - Phytosanitary certificates for export, 0%
- Among those who identified as qualifying as small businesses, the results were as follows:
 - Inspection and certification at point of shipping, 83.33%
 - Certified weed-free inspection of forage, gravel, or other products, 16.67%
 - Phytosanitary inspections in the field per acre, 16.67%
 - Phytosanitary certificates for export, 0.00%
- Survey results from the question "Would the fee increase prevent you from utilizing the services?" were as follows: yes 20%, no 33.33%, unsure 46.67%. Among respondents that identified as small business the results were as follows: yes 23.08%, no 30.77%, unsure 46.15%.
- Request for other recommendations were skipped or left blank by four of the respondents. Of the 29 respondents, four answered no and one commented "stop creating any more fees."

Persons interested in obtaining the survey results and summary may do so by contacting the Plant Industry Division at awhitenack@agri.nv.gov.

2. The manner in which the analyses was conducted.

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 regarding the proposed regulations and how they will impact small businesses. Comments received during the public workshop will be taken into consideration to reduce the economic impact on facilities.

- Out of 24 of the 29 respondents, 82.76% reported being small businesses.
- 21.74% of those surveyed indicated that there would be a significant impact on their business, with 30.43% responding that there would be no impact and 47.83% responding they were unsure of the impact. Among those surveyed that identified as small businesses, 25% said they would be impacted, 30% said they would not, and 45% were unsure.
- The level of negative financial impact reported from the survey included the following: no impact 10%; insignificant impact 20%; minor impact 30%; moderate impact 25%; major impact 10%; and severe impact 5%.
- For those identifying as small businesses, the survey results included the following: no impact 11.11%; insignificant impact 16.67%; minor impact 27.78%; moderate impact 27.78%; major impact 11.11%; and severe impact 5.56%.

3. The estimated indirect and direct economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:

A summary of the survey responses pertaining to economic impact are provided below.

- According to the survey, 21.74% of the total respondents indicated the changes would have a significant impact on their business, 30.43% indicated there would be no impact and 47.83% were unsure of the impact.
- Among those who identified as small businesses, 25% said it would impact their business, 30% said it would not impact to their business, and 45% were unsure. The level of negative financial impact totals from the survey results were no impact 10.00%, insignificant impact 20.00%, minor impact 30.00%, moderate impact 25.00%, major impact 10.00%, and severe impact 5.00%.
- Among those identifying as small businesses, the survey results were no impact 11.11%, insignificant impact 16.67%, minor impact 27.78%, moderate impact 27.78%, major impact 11.11%, and severe impact 5.56%

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.

The proposed increase of fees for inspections and certifications are in direct response to programs running at a deficit or not having adequate resources for properly executing program services per state and federal

requirements. This has been a particular issue in the NDA shipping point program, which has had an increase in service demands, but insufficient funds to support the needed staff and resources. This has not only impacted the NDA's ability to provide state services but has also impacted the NDA's compliance with USDA cooperative agreements, resulting in audit findings. In addition, the USDA requires the NDA to collect fees to cover the cost of shipping point and federal phytosanitary inspections and certifications.

To ensure the NDA was considering reasonable fee increases, the costs of compliant program implementation was evaluated, in addition to federal and state fee structures for equivalent programs. The following was determined during this assessment:

- In comparison to neighboring states (CA, UT, ID, OR, WA, MT, CO, AZ, WY, NM), fees averaged \$60 per hour, which aligns with the NDA's proposed hourly fee increase.
- The USDA fee for shipping-point inspections is \$93.00. Many states have additional fees for shipping point inspections, including additional per hundredweight (CWT) and certificate fees. These are significantly higher than the NDA's proposed \$60 hourly fee.
- Phytosanitary inspections fees varied from flat fees of \$50-\$100.00 or an average hourly rate of \$68.55. Certificate fees averaged \$30.00 and included additional fees for CWT. The NDA's proposed fee of \$60 per hour during inspections and \$40 per certificate issued would be less than the charge of surrounding states.
- Some "additional" fees charged by USDA and other states were based on minimum commercial and noncommercial values.
- Certificate of origins fees of the surrounding ten states averaged \$60.00, which is higher than the NDA's proposed fee increase to \$40.
- Certificate of free sale fees averaged \$52.50, higher than the NDA's proposed fee of \$40.
- Weed-free forage inspections had an average hourly fee of \$43.38. However, most states had additional fees for twine and labels (averaging \$0.14), in addition to per acre fees (averaging \$3.00).
- Certified seed fees for field inspections averaged \$11.55 per acre, with some states adding application, membership, minimum, tag, and/or cwt fees depending on the crop. The NDA's proposed increase is \$10 per acre.

One area where the NDA is hopeful to reduce expenses in the future is digitizing shipping point certificates to reduce the amount of time required to complete paperwork. This must be approved by USDA and the NDA is currently working to develop a process for further USDA consideration.

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

The NDA was implementing these programs prior to the proposed regulation changes.

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.

The increase in existing fees will cover the costs of executing inspection and certification services, which has been an ongoing issue, particularly involving shipping point inspections. Programs have continued to expand but have not been financially sustainable at current fee rates. The NDA operates under a USDA cooperative agreement in performing USDA shipping point and phytosanitary inspections. USDA audit fees have increased in the last year due to staff to completing additional required training to meet the increase in exports. This has added to the program continuing to operate at a deficit.

Based on FY20 program participation levels and the proposed fee changes the following increases in revenue are expected. The revenue will be used to cover staff, supplies, travel, and overhead costs in order to comply with state and federal requirements.

- Weed-free certification revenues were approximately \$6,596 and are estimated to increase to \$7,915.
- Seed certification inspection revenues were approximately \$19,292.00 and are estimated to increase to \$27,560.
- Shipping point inspection (grading) revenues were \$59,957 and are estimated to increase to \$71,948
- Phytosanitary inspection revenues were \$18,375 and are estimated to increase to \$29,859.
- Free-sale certificate fees were \$7,225 and are anticipated to increase to \$11,740.

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.

Not applicable.

8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.

The NDA has received requests for more staff to be trained and available for inspections due to the growth of agricultural commodities needing to be certified for grade, exports, noxious weeds, and seeds. The proposed fees would cover the program administration costs and assist the NDA with meeting the growing needs of industry. Furthermore, this would allow the NDA to resolve federal cooperative agreement audit findings and to have the adequate infrastructure for ensuring adherence to state and federal program requirements.

Overall, it would have some economic impact on small businesses based on the survey. As a result, the NDA has assessed the costs in performing services and evaluated other state structures in an effort to establish fees that would allow for programs to proceed while not limiting industry.

If program costs are not covered, the NDA will be unable to provide these services as it would be

unable to cover the staff and resources required to meet state and federal program requirements. This would result in out of state providers filling the demand, causing producers to incur higher fees and travel costs.

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 that the information contained in this statement is accurate.

Jennifer Ott Digitally signed by Jennifer Ott
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