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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.

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%.

STEVE SISOLAK
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