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**PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE
DIVISION OF ANIMAL INDUSTRY**

**NOTICE OF INTENT TO ACT UPON A REGULATION
AND
HEARING AGENDA**

Notice of Hearing for the Adoption of Permanent Regulations Nevada Administrative Code Chapters 564 and 565

LCB File No. R101-20 and R100-20

The Nevada Department of Agriculture (NDA) will hold a virtual public hearing at 2:00 p.m. on the 9th of September 2021.

The virtual hearing may be accessed using the meeting link or by telephone as follows:

Webex:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m0afff9492f51e1c7caa7d55ad4cbe0b1>

Meeting number (access code): 182 872 8682

Meeting password: pDvmM3JAx32 (73866352 from phones and video systems)

Phone: To join by telephone, call the phone-in number and enter the access code when prompted.
+1-408-418-9388 United States Toll

Access code: 182 872 8682

[Global call-in numbers](#)

Video system, application or Skype for business

Dial 1828728682@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

COVID-19 Notice

ALL PERSONS WISHING TO ATTEND THE HEARING MUST ATTEND VIA WEBEX OR TELEPHONICALLY.

- The open meeting law (Nevada Revised Statutes Chapter 241) requires public bodies to conduct their meetings with at least one physical location.

- Under Declaration of Emergency Directive 006, issued March 22, 2020, the physical location requirement has been suspended.

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to chapters 564 and 565 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of [NRS 233B.0603](#):

1. The need for and the purpose of the proposed regulation or amendment.

LCB File No. R101-20:

Nevada Revised Statutes (NRS) 561.153 provides that the Director of the State Department of Agriculture may prescribe by regulation fees to cover costs of providing certain services, products or publications and may adopt such procedures as they deem appropriate for the billing and collection of such fees. NRS 564.030 establishes the Director of the State Department of Agriculture may carry out the provisions of the chapter and, for that purpose, adopt such regulations not inconsistent therewith, and appoint such agents, under his or her direction, as the Director deems necessary therefore.

Existing law: (1) establishes a \$200 fee for the recording and rerecording of a brand, or brand and mark, or marks; and (2) authorizes the State Department of Agriculture to establish various other fees related to brands, brands and marks, or marks. (NRS 561.153, 564.040, as amended by section 1 of Senate Bill No. 454, chapter 311, Statutes of Nevada 2021, at page 1832, NRS 564.080, as amended by section 1.5 of Senate Bill No. 454, chapter 311, Statutes of Nevada 2021, at page 1832, and NRS 564.120, as amended by section 2 of Senate Bill No. 454, chapter 311, Statutes of Nevada 2021, at page 1832)

The need for and the purpose of the proposed regulations and amendments is as follows:

Sec. 1.1. Establishes a nonrefundable temporary brand application fee of \$35 to record the temporary use of a brand. Revises the temporary brand recording of \$30 to \$50 for each recording period. The establishment of the application fee is to allow the program to recover the administrative costs incurred in reviewing, processing, and approval or denial of temporary applications. The revised recording fee is due to these recordings being applied for, processed, and granted or denied on a yearly basis by program staff. The revised temporary brand recording fee allows the program to recover the administrative costs incurred in reviewing, processing, and approval or denial of temporary applications on a yearly basis.

Sec. 1.2. Establishes a nonrefundable new brand application fee of \$35 to record a brand, or brand mark, or marks pursuant to NRS 564.040. Per Senate Bill No. 454, Chapter 311, Statutes of Nevada 2021, at page 1832, revises the brand recording period of 4 years to 5 years and revises the recording fee of \$120 to \$200 for each recording period. The establishment of the application fee is to allow the program to recover the administrative costs incurred in reviewing, processing, and approval or denial of brand applications. The revised recording fee conforms with existing law.

Sec. 1.3. Per Senate Bill No. 454, Chapter 311, Statutes of Nevada 2021, at page 1832, revises the brand rerecording period of 4 years to 5 years and revises the rerecording fee of \$120 to \$200 for each recording period. The revised recording fee conforms with existing law.

Sec. 1.4. Establishes a nonrefundable brand application fee of \$35, and a late fee of \$30 to rerecord a brand, or brand mark, or marks that have been deemed abandoned pursuant to subsection 5 of NRS 564.120. Per Senate Bill No. 454, Chapter 311, Statutes of Nevada 2021, at page 1832, revises the brand recording period of 4 years to 5 years and revises the recording fee of \$120 to \$200 for each recording period. The establishment of the application fee is to allow the program to recover the administrative costs incurred in reviewing, processing, and approval or denial of abandoned brand rerecording applications. The purpose of the addition of a late fee is to serve as a deterrent to late renewals and to recover the administrative costs of processing individual late applications. The revised recording fee conforms with existing law.

Sec. 1.5. Establishes a nonrefundable brand transfer application fee of \$35 to transfer the ownership of a recorded brand, or brand mark, or marks pursuant to NRS 564.110. Per Senate Bill No. 454, Chapter 311, Statutes of Nevada 2021, at page 1832, revises the brand recording period of 4 years to 5 years and revises the recording fee of \$120 to \$200 for each recording period. The establishment of the brand transfer application fee is to allow the program to recover the administrative costs incurred in reviewing, processing, and approval or denial of brand transfer applications. The revised recording fee conforms with existing law.

Sec. 1.6. Revises the fee of \$35 to \$100 for 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 for purposes of NRS 564.110 for each period beginning July 1 and ending June 30 of the following year. The revised fee allows the program to recover the administrative costs incurred in reviewing, processing, approval or denial, and continuing administration of a security agreement on a yearly basis.

LCB File No. R100-20:

Nevada Revised Statutes (NRS) 561.153 provides that the Director of the State Department of Agriculture may prescribe by regulation fees to cover costs of providing certain services, products or publications and may adopt such procedures as they deem appropriate for the billing and collection of such fees. NRS 565.040 establishes that the Director of the State Department of Agriculture may declare any part of this State a brand inspection district and if a brand inspection district is created, the Director shall adopt regulations defining the boundaries of the district and the fees to be collected for brand inspections and prescribing such other methods of procedure not inconsistent with the provisions of this chapter as the Director considers necessary. NRS 565.070 establishes that the Department may levy and collect a reasonable fee for brand inspections as required under the provisions of this chapter.

The need for and the purpose of the proposed regulations and amendments is as follows:

Sec. 1.1.(a). Clarifying language to specify that the owner of animals must have a livestock movement permit issued in their name for their owned animals. This clarifying language was included due to the Department experiencing instances of individuals or entities illegally transporting or moving animals on a livestock movement permit that was not issued for the specific owner of the animals being moved without a brand inspection.

Sec. 1.1.(d). Establishes the authorization of owners of animals who obtain an “Event permit”, which is established in Sec. 2.1(c), are not required to obtain individual brand inspections when transporting rodeo, show, fair or other public exhibition animals out of this state or across district boundaries.

Sec. 1.6. Inclusion of the designation of an “annual sale”, which was established through NRS 573.025 during the 2019 Legislative Session. Existing regulations require the owner of animals which are consigned to a regular sale or special sale be charged for a brand inspection regardless of whether the animals are sold (NAC565.200). This inclusion of language conforms with existing law and requires animals consigned to an annual sale to be charged for a brand inspection regardless of whether the animals are sold.

Sec. 1.7. Current language directs the owners of animals to give 24-hour notice to a “brand inspector” to herd or trail animals out of this state. This revision provides that an owner of animals may provide this notice to the “Department”, thus providing more leniency and less restrictive guidance to owners who may now provide notice to other staff members of the Department.

Sec. 1.8. Revises this regulation to clarify that a brand inspection must be a visual inspection of the animals. This revision ensures that brand inspections are performed by an inspector who is physically present to view and inspect the animals prior to issuing a brand inspection clearance certificate.

Sec. 2.1.(a)(I)(II). Revises the fee for an annual horse permit of \$25 to \$35 and revises the fee for a lifetime horse permit of \$50 to \$75. The established fees are necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 2.1.(3). Establishes a travel fee of \$35 to be assessed for each location that a brand inspection is performed to issue an owner, or owners of animals, annual or lifetime horse permits.

Sec. 2.1.(b). Clarifying language to ensure that a livestock movement permit may “only” be used to move livestock that have been branded with the brand of the permittee recorded with the Department pursuant to NRS 564. Clarifying language included to provide notice that a livestock movement permit is only valid for 1 year from the date of issuance.

Sec. 2.1.(c). Establishes the creation of an Event permit which authorizes the movement of livestock without a brand inspection pursuant to an event permit out of this State or across the boundaries of a brand inspection district for use in a rodeo, show, fair or other public exhibition. Establishes the requirements that must be met to qualify for an Event permit. Owners of animals who obtain a permit are not required to obtain individual brand inspections when transporting animals which fall under these classifications. This revision addresses issues that the Department has experienced in which owners falling under these animal classifications fail to receive individual brand inspections due to the costs and time incurred in having these performed for every event traveling to. This revision provides more flexibility, lower operating costs, and less restrictive guidance of animal owners. This revision will aid the Department in gaining more compliance with brand inspection rules and regulations from these parties.

Sec. 2.1.(c)(4). Establishes a travel fee of \$35 for each inspection site and a permit fee of \$50 for each inspection completed and permit requested by a permittee. The established fees are necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.1.(a) Establishes a travel fee of \$35 to be assessed for each site that a brand inspection is performed to issue an owner, or owners of animals, brand inspection clearance certificate. The established travel fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.1.(b) Elimination of the \$10 first animal fee for livestock and establishes that all livestock inspected be assessed at \$1 per head of livestock. The elimination of the first animal fee is in response to the establishment of the travel fee imposed per inspection site.

Sec. 3.2.(b) Establishes a travel fee of \$35 to be assessed for each site that a brand inspection is performed to issue an owner, or owners of animals, brand inspection clearance certificate. The established travel fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.2.(b) Elimination of the \$10 first animal fee for horses and revises the per horse inspected from \$3 to \$5. The elimination of the first animal fee is in response to the establishment of the travel fee imposed per inspection site. The revised per horse inspection fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.4. Revises the Departments rate of charge for a brand inspectors time from \$16 per hour to \$24 per hour. The revised hourly rate is necessary to allow the Department to recover the staff salary costs incurred in employing these positions.

Sec. 3.5. Establishes that brand inspection fees are to be assessed on all livestock inspected at a regular sale, regardless of whether the livestock is sold. This additional language is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.5.(b). Elimination of the \$10 first animal fee for horses and revises the per horse inspected from \$3 to \$5 when inspected at a regular sale. The revised per horse inspection fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.6. Inclusion of the designation of an “annual sale”, which was established through NRS 573.025 during the 2019 Legislative Session. Revises the Departments rate of charge for a brand inspectors time of \$16 per hour to \$24 per hour. The revised hourly rate is necessary to allow the Department to recover the staff salary costs incurred in employing these positions.

Sec. 3.7. Establishes a travel fee of \$35 to be assessed for each site that an inventory inspection is requested. Revises the Departments rate of charge for a brand inspectors time from \$16 per hour to \$24 per hour. The established travel fee is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions. The revised hourly rate is necessary to allow the Department to recover the staff salary costs incurred in employing these positions.

Sec. 3.8. Establishes that all fees set forth in this regulation are due upon completion of the inspection and payable by check or credit card. Fees not paid at the time of the inspection will be billed by the Department. The additional clarifying language is set forth to aid the Department in the timely collection of fees due for services rendered and is necessary to allow the Department to recover the operating costs incurred in carrying out all programmatic duties and functions.

Sec. 3.9. Establishes that inspectors may send their completed brand inspection clearance certificates to the Department via digital upload. This additional language will aid the Department in receiving the required documentation in a timely manner while reducing costs associated with standard mailing. Additionally, this revision will reduce brand inspector time incurred in packaging and delivering all documentation to the post office for mailing.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

The proposed regulations are not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

Text of the proposed regulation is available on the Department of Agriculture website: www.agri.nv.gov, or by request of a digital or hard copy from animalindustries@agri.nv.gov or 775-353-3709. Requests should specify LCB File No. R101-20 and R100-20

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

Economic effect on business

a) Both adverse and beneficial effects

Adverse: Businesses or individuals registering brands in Nevada or utilizing the brand inspection services provided by the Department will incur increased costs in brand registration/renewals and brand inspection services.

Beneficial: The revised or additional fees collected by the Department will be utilized in recovery of the program operating costs incurred by the Department in administering and performing the statutory requirements and duties of the program and Department. The collection of revenue which will cover the programs operating expenditures will provide the ability for the program to provide a higher level of service in a timely fashion. Additionally, collection of revenue which offsets expenditures will ensure that the program continues to provide the statutorily required services. Having a program and staffing that can ensure the statutory rules and regulations are followed by all livestock owners across the state would aid in preventing theft and loss of livestock and ensuring fair business practices.

b) Both immediate and long-term effects

Immediate: Most of the proposed regulations would be effective upon adoption, so businesses and individuals would be immediately subject to any resulting effects.

Long-term: Currently registered brands would not be affected until the rerecording period beginning in 2023.

Economic effect on the public

a) Both adverse and beneficial effects

Adverse: If businesses or individuals subject to the revised or increased fees included in the regulations have the ability to pass along the increased costs to their customers or clients, the public would pay more for the goods and services provided by such businesses or individuals.

Beneficial: The revised or additional fees for brand recording, brand inspections, and permits would allow for the Department to have the funding available to provide a higher level of service, staffing and a more responsive program. Having a program and staffing that can ensure the statutory rules and regulations are followed by all livestock owners across the state would aid in preventing theft and loss of livestock and ensuring fair business practices. Increased compliance will benefit the public as a consumer group.

b) Both immediate and long-term effects

Immediate: The proposed regulations are not anticipated to have an immediate effect on the public.

Long-term: Should businesses or individuals who utilize the Livestock Inspection program be able to pass along to their customers or clients any increased cost of conducting business resulting from the fee amounts included in the proposed regulations, the public would incur higher costs for certain goods and services.

5. The methods used by the agency in determining the impact on a small business.

A digital survey was released via email including a link to the Legislative Counsel Bureau's (LCB) website containing the proposed revised language of NAC564 and NAC565 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 was sent to 4,785 licensed businesses and interested parties. The survey was also available in hard copy form upon request to the Department. In total the survey received 213 responses.

6. 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 revised provisions of NAC 564 and NAC 565 will increase as result of the proposed regulations. The agency anticipates one-time costs of approximately \$2,500 to print and mail a notice of the revised regulations to all livestock owners, producers and industry partners currently registered with the program following adoption of the regulation.

- 7. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

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 Nevada brands, brand inspections or identification of livestock.

- 8. If the regulation is required pursuant to federal law, a citation and description of the federal law.**

The proposed regulations are not required pursuant to federal law.

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

N/A

- 10. Whether the proposed regulation establishes a new fee or increases an existing fee.**

LCB File No. R101-20: Section 1 establishes new fees and increases existing fees.

LCB File No. R100-20: Section 2 and 3 establish new fees and increases existing fees.

- 11. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied.)**

The proposed regulation is not temporary.

Persons wishing to comment upon the proposed action of the Nevada Department of Agriculture may participate virtually at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Nevada Department of Agriculture, 405 South 21st Street, Sparks, NV 89431 or by email to animalindustry@agri.nv.gov . Written submissions must be received by the Nevada Department of Agriculture before 5:00 p.m. on September 2, 2021. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Agriculture may proceed immediately to act upon any written submissions.

Interested persons may obtain a copy of the text of this Notice of Hearing by contacting:

Nevada Department of Agriculture
Division of Animal Industry
405 South 21st Street
Sparks, NV 89431
Phone: 775-353-3709 Email: animalindustry@agri.nv.gov

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to [NRS 233B.0653](#), and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of this hearing was posted on or before 9 a.m. thirty days before the meeting at the following locations: the Nevada Department of Agriculture website at www.agri.nv.gov and www.notice.nv.gov.

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**ADOPTION HEARING AGENDA
NEVADA DEPARTMENT OF AGRICULTURE
DIVISION OF ANIMAL INDUSTRY
Thursday, September 9, 2021
2:00 p.m. PST**

Webex:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m0afff9492f51c1c7caa7d55ad4cbe0b1>

Meeting number (access code): 182 872 8682

Meeting password: pDvmM3JAx32 (73866352 from phones and video systems)

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- Under Declaration of Emergency Directive 006, issued March 22, 2020, the physical location requirement has been suspended.

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1. Call to Order
2. Public Comment. Comments from the public are invited at this time on matters other than regulation amendments. The agency reserves the right to limit to 3 minutes the amount of time that will be allowed for each individual to speak. The agency is precluded from action on items raised during Public Comments that are not on the agenda.
3. **For possible action:** Discussion and Adoption of Proposed Permanent Regulations
 - a. Amendment of regulations that pertain to chapters 564 and 565 of the Nevada Administrative Code.
4. Public Comment. Comments from the public are invited at this time. The agency reserves the right to limit to 3 minutes the amount of time that will be allowed for each individual to speak. The agency is precluded from action on items raised during Public Comment that are not on the agenda.
5. Adjournment

A copy of all materials relating to the proposed regulations may be obtained at the hearing or by contacting the Nevada Department of Agriculture, 405 S. 21st Street, Sparks, NV 89431, animalindustry@agri.nv.gov , or (775) 353-3709. In your request, please state that you are requesting materials for the adoption hearing on September 2, 2021.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Requests for accommodations or assistance may be submitted to the Department in writing to the address below or by calling 775-353-3709 at least three (3) business days prior to the meeting.

Nevada Department of Agriculture
Attn: Julia Miller-Ketcham
405 S. 21st Street
Sparks, NV 89431
Via email: jmiller-ketcham@agri.nv.gov

Action may not be taken on matters considered during public comment until specifically included on a future agenda as an action item.

Notice of this meeting has been sent to all persons on the agency's mailing list for administrative regulations, posted on the internet through the Department of Agriculture's website at www.agri.nv.gov, and on the Nevada Public Notices website at <https://notice.nv.gov/> on or before 9 a.m. thirty days (30) calendar days prior to the meeting. Additionally, notice of this meeting was sent to the Nevada Legislative Counsel Bureau for posting at: <https://leg.state.nv.us/App/Notice/A/>.