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DEPARTMENT OF AGRICULTURE

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LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066

INFORMATIONAL STATEMENT

LCB File No. R070-22

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 581.

1. A clear and concise explanation of the need for the adopted regulation.

These amendments are necessary to bring needed updates throughout NAC Chapter 581 as follows.

NRS Chapter 581 requires the State Sealer of Measurement Standards to adopt regulations establishing standards for weights and measures for use in Nevada. Adopting the *National Conference of Weights and Measures (NCWM) Publication 14* will increase this scope.

The State Sealer is also required to establish a schedule of fees for necessary tests of weighing and measuring devices and existing regulations establish such fees. The State Sealer is further authorized to determine the fee charged for testing devices or standards not listed on the schedule of fees, testing standards from out of State or testing which requires special arrangements. Existing regulations also require the standards used by a service agency or serviceperson to be certified in accordance with a schedule. This file amends the fees charged for several device classes and changes the frequency of certification for several device classes. These are meant to bring the state metrology lab in better alignment with other regional state labs.

Presently, regulations require weighing or measuring devices to have a certificate of conformance or allow the use of certain types without a certificate of conformance under specific circumstances. This file revises the regulations to also authorize devices under other specific circumstances. This change will allow for Electric Vehicle Supply Equipment (i.e., charging stations) to be tested for compliance.

Finally, currently, a registered serviceperson is required to notify the State Sealer within 24 hours of installing or making repairs or adjustments to a device, which has been found to be unnecessarily burdensome to the serviceperson. This requirement is being removed, but a requirement to submit a written notification within 5 days is being retained.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Notice and text of the proposed regulations were mailed via the United States Postal Service to 2230 individual businesses that may be affected by the regulation changes. Twelve notices were returned as undeliverable. In addition, a notice and a link to the text of the proposed regulations were sent via email to 7,441 interested parties (of which 575 were opened, 157 clicked on a link in the email, 28 email addresses could not be delivered, and 1 person unsubscribed). The notice included the website address for an electronic survey and a request that the recipient participate in the survey to assist the Nevada Department of Agriculture (NDA) in determining the potential impacts of the proposed regulations on businesses in Nevada. An option was offered for recipients to request a hard copy of the survey be sent to them by mail or email, though the department did not receive any such requests. Notice of the proposed regulations and the survey link were posted to www.agri.nv.gov. The survey was open from November 10, 2022, through December 16, 2022.

A total of 23 responses were received, though not all respondents answered every survey question. 20 of those respondents answered ‘Yes’ to Question 1, which asked if the respondents business fell under the definition of a small business as defined by NRS 233B.0382 (a business with fewer than 150 employees). Persons interested in obtaining the survey results and summary may do so by contacting the NDA’s Division of Measurement Standards at 775-353-3782 or ms@agri.nv.gov.

These documents were also posted and made available at the following locations:

- Nevada Department of Agriculture, 405 S. 21st St., Sparks, NV 89431
- Nevada Department of Agriculture, 2300 E. Saint Louis Ave., Las Vegas, NV 89104
- Nevada Department of Agriculture, 4780 E. Idaho St., Elko, NV 89801
- State Capitol Building
- Nevada State Library & Archives
- County Public Libraries, email contact available at <http://nsla.nv.gov/find-a-library-directory>
- Nevada Department of Agriculture website at agri.nv.gov
- Nevada Public Notice website at <http://notice.nv.gov/>
- Nevada Legislature Administrative Regulation Notices at <http://www.leg.state.nv.us/App/Notice/A/>

A workshop was held on December 12, 2023, and the minutes of that meeting, attached hereto, contain a summary of the discussion held regarding the proposed amendments. There was one comment from an attendee, who expressed support for the proposed change. There were no

written comments submitted prior to or following the workshop. No changes to the draft file discussed at the workshop were submitted to the Legislative Council Bureau (LCB).

Thereafter, on or about February 5, 2024, the Administrator of the Division of Measurement Standards issued a Notice of Intent to Act Upon a Regulation. The hearing was held on March 12, 2024, and the minutes of that meeting, attached hereto, contain a summary of the discussion held regarding the proposed amendments. There were several clarifying questions asked by one attendee, as well as a comment, and that attendee appeared to be satisfied by the answers received. Review the attached hearing minutes for details of those questions and answers.

A copy of this summary of the public response to the proposed regulation may be obtained from the Nevada Department of Agriculture, Attn: Division of Measurement Standards, 405 S. 21st St., Sparks, NV 89431, (775) 353-3782, or ms@agri.nv.gov.

3. The number of persons who (a) Attended each hearing, (b) Testified at each hearing, (c) Submitted to the agency written comments.

- Workshop held on December 12, 2023
 - Number in attendance: 4
 - Number testifying: 1
 - Written statements submitted: 0

- Hearing held on March 12, 2024
 - Number in attendance: 6
 - Number testifying: 1
 - Written statements submitted: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

Workshop held on December 12, 2023

Name	Entity/Organization	Address	Phone	Email
William Striejewske	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3726	wstrijewske@agri.nv.gov
Adelina Helton	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3783	a.helton@agri.nv.gov
James Kellames	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3788	jkellames@agri.nv.gov
Lee Lawrence	ZeeBest Pest Control	973x State Route 445 #86, Sparks, NV 89436	775-379-2521	zeebestpc@gmail.com

Hearing held on March 12, 2024

Name	Entity/Organization	Address	Phone	Email
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JJ Goicoechea, DVM	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3619	jgoicoechea@agri.nv.gov
Douglas Farris	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3737	d.farris@agri.nv.gov
William Striejewske	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3726	wstrijewske@agri.nv.gov
Adelina Helton	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3783	a.helton@agri.nv.gov
James Kellames	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89431	775-353-3788	jkellames@agri.nv.gov
Kevin Haddock	Testwave	1461 Greg Street, Sparks, NV 89431		renorocks@testwave.com

5. A description of how comments were solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Notice and text of the proposed regulations were mailed via the United States Postal Service to 2230 individual business that may be affected by the regulation changes. Twelve notices were returned as undeliverable. In addition, a notice and a link to the text of the proposed regulations were sent via email to 7,441 interested parties (of which 575 were opened, 157 clicked on a link in the email, 28 email addresses could not be delivered, and 1 person unsubscribed). The notice included the website address for an electronic survey and a request that the recipient participate in the survey to assist the Nevada Department of Agriculture (NDA) in determining the potential impacts of the proposed regulations on businesses in Nevada. An option was offered for recipients to request a hard copy of the survey be sent to them by mail or email, though the department did not receive any such requests. Notice of the proposed regulations and the survey link were posted to www.agri.nv.gov. The survey was open from November 10, 2022, through December 16, 2022.

A total of 23 responses were received, though not all respondents answered every survey question. 20 of those respondents answered ‘Yes’ to Question 1, which asked if the respondents business fell under the definition of a small business as defined by NRS 233B.0382 (a business with fewer than 150 employees). Persons interested in obtaining the survey results and summary may do so by contacting the NDA’s Division of Measurement Standards at 775-353-3782 or ms@agri.nv.gov.

6. 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 permanent regulation was adopted at the hearing on March 12, 2024. No changes from the posted LCB file were suggested or requested at either the workshop or at the hearing.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

- Adverse economic effect on regulated business

Regulated businesses subject to the revisions proposed in this regulation may experience adverse economic effects for the cost of additional license fees for weighing and measuring devices not currently licensed as commercial weighing and measuring equipment and for the cost of agency staff time to facilitate inspection of these devices, or for increased rates on a limited number of device types.

- Beneficial economic effect on regulated business

Some regulated businesses may experience beneficial economic effects from the proposed regulation. If that business uses a process that is not currently under the authority in NAC Chapter 581, an additional step to determine product weight may be necessary before a product can be sold. Authority granted by this regulation may serve to eliminate additional steps, improving efficiency and providing economic benefit to the business.

- Immediate economic effect on regulated business

Regulated businesses subject to the revisions proposed in this regulation may experience adverse economic effects when invoiced on July 1 for the upcoming fiscal year following adoption. Following adoption, businesses will be notified of the changes in NAC 581 and the potential impacts on their business.

Some regulated businesses may experience beneficial economic effects from the proposed regulation as explained above.

- Long-term economic effect on regulated business

There is not a long-term economic effect for regulated businesses subject to the revisions proposed in this regulation different from the immediate effects described above, neither adverse nor beneficial.

- Adverse economic effect on the public

The agency does not anticipate any adverse economic effect on the public from the proposed regulation.

- Beneficial economic effect on the public

The public may find beneficial economic effect, but it would likely be small and indirect. For those who own electric vehicles and charge them using publicly available devices, the authority to certify the calibration of EVSEs so that the cost to the public aligns with what is advertised, and their vehicles will not be harmed will provide benefit.

- Immediate economic effect on the public

Immediate economic benefit to the public would likely be small and indirect, as described above.

- Long-term economic effect on the public

Long term economic benefit to the public would likely be small and indirect, as described above.

8. The estimated cost to the agency for enforcement of the adopted regulation.

The NDA anticipates limited increased costs to enforce the amended provisions of NAC 581. An EVSE test measure, used to certify an EV charging station, requires annual certification at a cost of approximately \$2,000. That cost would be multiplied by the number of test measures purchased as the number of charging stations statewide continues to increase. There may be additional costs to the agency in the form of employee time used for additional testing, fuel costs for travel to new devices for testing, and possible retesting, and the cost to purchase additional testing equipment as that becomes necessary. This cost is difficult to estimate at this point in the rulemaking process.

The agency does not anticipate that its ongoing costs to enforce the proposed revised provisions of NAC 581 and NAC 582 will increase as a result of the proposed regulations. The agency anticipates one-time costs of approximately \$1,500 to print and mail a notice of the revised regulations to all commercial weighing and measuring device owners following adoption of the regulation.

9. 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.

The proposed regulations do not overlap or duplicate any federal, state or local standards.

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

The proposed regulations are not more stringent than federal, state, or local standards.

11. If the 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 proposed regulation does not directly provide for a new fee, but it will both increase the number of devices under the authority of the NDA and it also will make increases to several existing fees collected by the agency.

Regarding the additional devices to be certified, it is difficult to estimate how many more devices would now be included in annual inspections. As previously mentioned in this document, a prime reason for this regulatory action is the increasing number of EV charging stations in Nevada. The NDA has not adopted regulations for the testing of EV

charging stations yet but has purchased an EVSE test measure and begun a study to assess the details of testing a charging station. This information will be used in the future, along with input from industry stakeholders, to produce fair and reasonable regulations and fees for these devices.

Regarding increases in existing fees, these are proposed to bring the NDA Metrology Laboratory fee structure and recertification schedule more in line with other state laboratories in the region. Based on the number of standards handled by the lab in FY2020 and FY2021 that will be affected by the fee increase, as well as the number of standards handled by the lab in FY2023, the additional amount collected is expected to be between approximately \$7,500 and \$15,000. This additional money will be used as part of the Division of Measurement Standards budget.

Julian J (J.J.)

Goicoechea, DVM

Digitally signed by Julian J (J.J.) Goicoechea, DVM
DN: cn=Julian J (J.J.) Goicoechea, DVM, o=Nevada
Department of Agriculture, ou=Director,
email=jgoicoechea@agri.nv.gov, c=US
Date: 2024.04.03 09:39:53 -07'00'

J. J. Goicoechea, DVM
Director
Nevada Department of Agriculture

NAC 581 Workshop Minutes from 12/12/2023
Division of Measurement Standards

MEETING MINUTES

**Of the Nevada Administrative Code (NAC) Chapter 581 Workshop of the
Nevada Department of Agriculture (NDA)**

LCB File No. R070-22

The Nevada Department of Agriculture (NDA) held a public meeting on December 12, 2023, beginning at 10:00 a.m. PST at the following location(s):

Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
Phone: (775) 353-3601

Video conference to:

Nevada Department of Agriculture
2300 E. St. Louis Avenue
Las Vegas, NV 89104
Phone: (702) 668-4590

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89445
Phone: (775) 738-8076

Phone and/or video conference via:

Zoom for all interested parties
Meeting Number: 851 1427 6541
Access code: 537411

Persons in attendance:

- William Striejewske, Administrator, NDA Division of Measurement Standards
- James Kellames, Metrologist III, NDA Division of Measurement Standards
- Adelina Helton, Administrative Assistant III, NDA Division of Measurement Standards
- Lee Lawrence, ZeeBest Pest Control
- There were no online attendees

I. Call to Order:

The meeting was called to order at 10:06 a.m. by Administrator Striejewske. He noted that the workshop was being held in a hybrid fashion, in-person at the Nevada Department of Agriculture office in Sparks, teleconferenced to the NDA

offices in Elko and Las Vegas, and accessible via Zoom, and that the workshop had been properly noticed and was being recorded as required by Nevada Open Meeting Law.

Administrator Striejewske stated that this public meeting was being held to review the proposed language and seek feedback from the public on NAC Chapter 581 regarding various changes to the chapter, including but not limited to the following: revising adopted publications; increasing fees for certain inspections and tests of certain devices; revising the requirement that measuring devices be traceable to an active certificate of conformance; authorizing the use of types that are not traceable to an active certificate of compliance under certain conditions, revising standards that must be certified and the schedule for their certification, and eliminating the requirement that notification of repair or adjustment to a measuring device be made within 24 hours if other commitments are met.

A review of the agenda and instructions to participants connecting virtually or via phone as to how to engage in the meeting using the online platform was provided. It was requested that all persons identify themselves by name and any affiliation for the record when providing comment.

II. **Public Comment (1st period):**

Administrator Striejewske asked if anyone from the public sought to make a comment on the proposed regulations.

Lee Lawrence, ZeeBest Pest Control, commented that as a business owner moving into the EV market by purchasing vehicles, he supports the work in this file to become more active in regulating chargers on behalf of the state.

III. **Review and Discussion of Proposed Regulations**

Administrator Striejewske outlined the Nevada Administrative Code Chapter 581 for proposed amendment.

This regulation is necessary to:

- Adopt by reference sections of *National Conference of Weights and Measures Publication 14*.
- Revise where certain standards that have been adopted by reference can be obtained and how they may be purchased.
- Eliminate the adoption by reference of the Uniform Open Dating Regulation, as set forth in the *National Institute of Standards and Technology Handbook 130: Uniform Laws and Regulations*.
- Revise NAC 581.210 to increase the fees for various inspections and tests of certain scale devices, linear devices and meter devices.

- Revise NAC 581.220 to remove the authorization for the State Sealer of Measurement Standards to enter into an agreement about the fee charged for testing out of State standards.
- Revise NAC 581.230 to require weighing or measuring devices and certain accessories to be traceable to an active certificate of conformance.
- Revise NAC 581.230 to authorize the use of types that are not traceable to an active certificate of compliance under certain conditions.
- Revise NAC 581.350 concerning standards that must be certified and the schedule for certification.
- Revise NAC 581.370 to eliminate the requirement that notification of repair or adjustment to a measuring device be made within 24 hours if other commitments are met.

There were no comments or questions provided by attendees during this discussion period.

IV. Public Comment (2nd period):

Administrator Striejewske asked if anyone from the public sought to make a comment on the proposed regulations. There was no general public comment provided.

V. Adjourn

Administrator Striejewske thanked the workshop/hearing attendees for their participation and adjourned the public meeting at 10:29 a.m.

MEETING MINUTES

**Of the Nevada Administrative Code (NAC) Chapter 581 Hearing of the
Nevada Department of Agriculture (NDA)**

LCB File No. R070-22

The Nevada Department of Agriculture (NDA) held a public meeting on March 12, 2024 beginning at 1:00 p.m. at the following location(s):

Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
Phone: (775) 353-3601

Video conferenced to:

Nevada Department of Agriculture
2300 E. St. Louis Avenue
Las Vegas, NV 89104
Phone: (702) 668-4590

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89445
Phone: (775) 738-8076

Phone and video conference via:

Zoom for all interested parties
Meeting Number: 824 9078 7163
Access code: 085907

Persons in attendance:

- William Striejewske, Administrator, NDA Division of Measurement Standards
- JJ Goicoechea, DVM, Director and State Sealer, NDA
- Douglas Farris, Deputy Director, NDA
- James Kellames, Metrologist III, NDA Division of Measurement Standards
- Adelina Helton, Administrative Assistant III, NDA Division of Measurement Standards
- Kevin Haddock, Testwave

I. Call to Order:

The meeting was called to order at 1:00 p.m. by Administrator Striejewske. He noted that the workshop was being held in a hybrid fashion, in-person at the

Nevada Department of Agriculture office in Sparks, teleconferenced to the NDA offices in Elko and Las Vegas, and accessible via Zoom, and that the workshop/hearing had been properly noticed and was being recorded as required by Nevada Open Meeting Law.

Administrator Striejewske stated that this public meeting was being held to review the proposed language and seek feedback from the public on NAC Chapter 581 regarding various changes to the chapter, including but not limited to the following: revising adopted publications; increasing fees for certain inspections and tests of certain devices; revising the requirement that measuring devices be traceable to an active certificate of conformance; authorizing the use of types that are not traceable to an active certificate of compliance under certain conditions, revising standards that must be certified and the schedule for their certification, and eliminating the requirement that notification of repair or adjustment to a measuring device be made within 24 hours if other commitments are met.

A review of the agenda and instructions to participants connecting virtually or via phone as to how to engage in the meeting using the online platform was provided. It was requested that all persons identify themselves by name and any affiliation for the record when providing comment.

II. **Public Comment (1st period):**

Administrator Striejewske asked if anyone from the public sought to make a comment on the proposed regulations. There was no general public comment provided.

III. **Review and Discussion of Proposed Regulations**

Administrator Striejewske outlined the Nevada Administrative Code Chapters 581 for proposed amendment.

This regulation is necessary to:

- Adopt by reference sections of *National Conference of Weights and Measures (NCWM) Publication 14*.
- Revise where certain standards that have been adopted by reference can be obtained and how they may be purchased.
- Eliminate the adoption by reference of the Uniform Open Dating Regulation, as set forth in the *National Institute of Standards and Technology (NIST) Handbook 130: Uniform Laws and Regulations*.
- Revise NAC 581.210 to increase the fees for various inspections and tests of certain scale devices, linear devices and meter devices.

- Revise NAC 581.220 to remove the authorization for the State Sealer of Measurement Standards to enter into an agreement about the fee charged for testing out of State standards.
- Revise NAC 581.230 to require weighing or measuring devices and certain accessories to be traceable to an active certificate of conformance.
- Revise NAC 581.230 to authorize the use of types that are not traceable to an active certificate of compliance under certain conditions.
- Revise NAC 581.350 concerning standards that must be certified and the schedule for certification.
- Revise NAC 581.370 to eliminate the requirement that notification of repair or adjustment to a measuring device be made within 24 hours if other commitments are met.

The following comments and questions were provided by attendees during this discussion period:

Kevin Haddock, Testwave, asked for clarification as to why NIST Handbook 44 was no longer going to be adopted, but the NCWM Publication 14 Series would be. Administrator Striejewske replied that only one section of Handbook 44 was being removed from NAC Chapter 581, and that the rest of the handbook would continue to be adopted. Mr. Haddock also asked if, in reference to Section 6, whether there would be an opportunity for third party companies to participate in EVSE testing. Administrator Striejewske responded that nothing has been decided on that yet, and that as those rules are developed, industry would be part of the discussions. Mr. Haddock further commented that he didn't believe that although NCWM has been very active concerning EVSE regulations that members had the expertise to properly develop these regulations, and that ASTM and IEEE were better sources for regulatory guidance. Mr. Haddock asked if, as a Registered Service Agent, he can use out-of-state laboratories for certifying his weights. Administrator Striejewske deferred to James Kellames, NDA Metrologist III who replied that yes, out-of-state labs could be used, if they are recognized as 'qualified' by NIST. Finally, Mr. Haddock asked about the note in the Small Business Statement that calibration of an EVSE carried a cost of \$2000, and asked if that would be charged to the owners of the stations. Administrator Striejewske answered that the amount was a rough estimate of the charge at this time. NOTE: Administrator Striejewske spoke erroneously. In fact, the \$2000 charge is the annual cost to calibrate the EV testing unit used by NDA.

IV. **Public Comment (2nd period):**

Administrator Striejewske asked if anyone from the public sought to make a comment on the proposed regulations. There was no general public comment provided. Administrator Striejewske stated that written comments would be

accepted until 5:00 p.m. on Friday, March 15, 2024.

NDA staff requested the name and affiliation of those participating via phone for the meeting minutes.

Because the questions and comments taken during the hearing did not necessitate further review, Administrator Striejewske asked NDA Director and State Sealer of Measurement Standards Goicoechea to adopt the proposed regulations. Director Goicoechea, in his role as State Sealer, moved to adopt the proposed regulations.

V. Adjourn

Administrator Striejewske thanked the hearing attendees for their participation and adjourned the public meeting at 1:34 p.m.