

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
Informational Statement  
LCB File No. R172-18

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

This regulation is necessary to:

- Add new definitions for specific weight kits used in the testing of certain weighing and measuring devices.
- Clarify that the fees established in NAC 581.210 may only be charged for those tests conducted by the Division of Consumer Equitability for the purpose(s) specifically identified in NAC 581.210.
- Increase the fees for the annual registration of commercial weighing and measuring devices, and to increase the fees for tests of weighing and measuring devices conducted by the Division of Consumer Equitability, and to increase the fees charged for travel and time spent for testing of certain weighing and measuring devices.
- Establish a classification and fee for the registration and testing of scale devices with a capacity of 500 pounds and under that are tested with a Class II, Echelon II weight kit.
- Amend the date by which failure to pay bill issued by the Division of Consumer Equitability constitutes a violation of the regulations to allow for a due date that is more than 30 days from the issuance of the bill and to establish that such due date may not be less than 30 days from the issuance of the bill.
- Establish a consistent percentage amount to be assessed for late payment of any bill issued by the Division of Consumer Equitability.
- Amend the commercial weighing and measuring annual device license period and license renewal period to more closely align with the state's fiscal year.

2. 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.

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 weighing and measuring devices, 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 (NDA) [www.agri.nv.gov](http://www.agri.nv.gov), at the website Nevada Public Notice Website [www.notice.nv.gov](http://www.notice.nv.gov) and were provided to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture  
405 South 21st Street  
Sparks, NV 89431

Nevada Department of Agriculture  
2150 Frazer Avenue  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 E. St Louis Avenue  
Las Vegas, NV 89104

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89801

A workshop was held on August 2, 2018 and the recording and minutes of that meeting contain the complete details of the workshop discussion. In summary, the majority of the comments received from those in attendance at the workshop and through written comments indicated concern about the percentage amount of the fee increase as compared to the current fee amounts and the ability of device owners/industry to budget for and afford such an increase. Workshop attendees inquired about the expenses of the department and the division and expressed a desire to better understand how those expenses related to the activities of registering and testing weighing and measuring devices. It was requested by certain industry representatives attending the workshop that the agency consider phasing in the proposed increase over time. Workshop attendees requested that language be added to NAC 581.210 clarifying when the fees authorized in that section could be charged.

On or about September 14, 2018 the Director of the Department of Agriculture (Director) issued a Notice of intent to Act Upon a Regulation for R172-18RP1, which incorporated suggestions of the parties attending the August 2<sup>nd</sup> workshop. The notice included information on how to submit written statements regarding the proposed regulations to the department in advance of the hearing; written statements were due to the department on or before October 15, 2018.

A public hearing for the adoption of the regulations was held at 9:30 am on October 18, 2018. Mr. Doug Busselman, Nevada Farm Bureau, expressed concerns that by spreading the proposed fee increases over multiple years, some weighing and measuring device owners may perceive future increases as superfluous. Mr. Busselman also inquired as to the effect on the Division of Consumer Equitability's resources as result of phasing in the increase over time. Agency staff provided information as to the primary intended use of the anticipated revenues (to add new Weights and Measures Inspector positions) and that as result of the reduced fee increase amount, certain equipment and software purchases would need to be deferred to future biennia. Mr. Busselman requested that any future consideration of privatization of livestock scale testing include representatives from the broadest group of industry organizations, representatives and private ranch owners as possible; a workshop specific to livestock scale inspections was suggested and the agency indicated willingness to conduct such a workshop in the future. Mr. Peter Kruger, Nevada Petroleum Marketers and Convenience Store Association, inquired as to the distribution of Weights and Measures Inspectors in the various population centers of Nevada and encouraged the agency to consider prioritizing hiring of personnel to serve in southern Nevada. Mr. Eric Smith, Nevada LP-Gas Board, requested that agency staff review references in NAC 581 to *liquid petroleum gas*, as the term *liquefied petroleum gas* is defined in NRS 590.475 and may be a more appropriate reference.

Interested persons may obtain a copy of the recording and/or minutes of the August 2, 2018 workshop and the October 18, 2018 public hearing by contacting:

Nevada Department of Agriculture  
Division of Consumer Equitability  
Attn: Cadence Matijevich, Administrator  
405 South 21st Street

Sparks, NV 89431  
 Phone: 775-353-3726 Email: c.matijevich@agri.nv.gov

3. The number of persons who:
  - (a) Attended each hearing:
  - (b) Testified at each hearing:
  - (c) Submitted written comments:

Workshop date: August 2, 2018  
 Number in attendance: 27  
 Number testifying: 13  
 Written statements submitted: 4

Hearing date: October 18, 2018  
 Number in attendance: 6  
 Number testifying: 3  
 Written statements submitted: 0

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

Name	Entity or Organization	Address	Business Telephone	Email Address
Eric Smith	NV LP-Gas Board	PO Box 338 Carson City, NV 89702	775-687-4890 x203	esmith@nvlpgasboard.com
Katie Bavaro	NV LP-Gas Board	PO Box 338 Carson City, NV 89702	775-687-4890 x201	admin@nvlpgasboard.com
Doug Busselman	Nevada Farm Bureau	2165 Green Vista Dr, Sparks, NV	775-870-3349	doug@nvfb.org
Neena Laxalt	Nevada Propane Dealers Association		775-762-1864	nlaxalt@msn.com
Rudy Forster	Granite Propane		775-980-7333	rdforster@aol.com
Liz MacMenamin	Retail Association of Nevada		775-720-2528	lizm@rannv.org
Mike Eriksen	Nevada Propane Dealers Association		775-753-2853	mike@wellspropane.net

Peter Krueger	Nevada Petroleum Marketers & Convenience Store Association		775-721-6888	peter@fuelingnevada.com
Bryan Milton	Comstock Propane, Inc		775-722-0437	bryan@comstockpropane.com
Joel Nelson	Hunt Propane		775-560-3411	jnelson@huntpropane.com
Frank Loesche	Amerigas Propane		775-434-4645	Frank.loesche@amerigas.com
Grant Mills	Mills Farm & Industrial		775-217-0988	grantmfi@yahoo.com
Vivian Ruiz	New2U Computers		775-329-1126	vivianruiz@disabilityresourcesnv.org
Jay Wilson	New2U Computers		775-329-1126	jwilson@disabilityresourcesnv.org
Daniel Wagner	Interstate Oil			dwagner@interstateoil.com
Brandon Harmon	Nevada Department of Agriculture	405 S. 21st St, Sparks, NV 89431	775-353-3720	bharmon@agri.nv.gov
Jamie Thompson	Nevada Department of Agriculture	405 S. 21st St, Sparks, NV 89431	775-353-3782	jthompson@agri.nv.gov
James Kellames	Nevada Department of Agriculture	405 S. 21st St, Sparks, NV 89431	775-353-3788	jkellames@agri.nv.gov
Mike Gower	Nevada Department of Agriculture	405 S. 21st St, Sparks, NV 89431	775-353-3784	m-gower@agri.nv.gov
Kipp Blauer	Nevada Department of Agriculture	2300 E. St. Louis Ave., Las Vegas, NV 89104	702-668-4541	kblauer@agri.nv.gov
Paul Noe	Nevada Board of Agriculture	405 S. 21st St, Sparks, NV 89431	775-353-3601	
Peter Kim	Cultivate		702-513-5227	purchasing@cultivatelv.com
Angelo Micali	Polaris		702-305-6518	angelo@polarismmj.com
Kevin Kanaka	Polaris		626-641-5836	kevin@polarismmj.com
Jennifer Garrett	Hooper Ranch		775-934-5528	
Li Li Wolf	Hooper Ranch; Wolf & Sons		775-777-4883	
Sherry Brough	Brough Livestock LLC		775-752-3714	broghranch@gmail.com
Allie Bear				allie@aranchbroker.com
Ruby Uhart				homeranch210@gmail.com
Sabrina Reed	Julian Tamera Ranches, Stone House Division	Hc65-11 Carlin, NV 89822	775-754-2333	Nvreeds2002@yahoo.com
Eric Clarke	Nevada Petroleum Marketers &	175 Delucci Ln, #201	503-739-0375	eric@capitolpartners.us

	Convenience Store Association	Reno, NV		
Alex Tanchek	K. Neena Laxalt Consulting	PO Box 9607 Reno, NV 89507	775-636-3350	jatanchek@hotmail.com

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

A survey was conducted of small businesses that would potentially be affected by the regulation. The survey was available for completion online or in hard copy form. Notice of the survey was mailed via the United States Postal Service to 2,071 commercial weighing and measuring device owners, requesting that those businesses meeting the definition of small business under NRS 233B.0382 complete the survey. The survey was open for response from June 19, 2018 through July 6, 2018. A total of 108 survey responses were received.

A notice of the August 2, 2018 workshop, including information on how to access the text of the proposed regulations online or to request a hard copy of the proposed regulations, was mailed to 2,363 commercial weighing and measuring device owners. Contact information for business owners to provide comment to the Division of Equitability was included in the notice. Three written comments were received in opposition to the proposed regulations and two device owners contacted the Division of Equitability via telephone to express opposition to the proposed regulations.

In addition to the above, the agency gave a presentation on the proposed regulations to the Nevada Cattleman's Association Board of Directors on July 24, 2018 in Elko Nevada. The agency also met individually with representatives of the following industry organizations regarding the proposed regulations:

Nevada Farm Bureau  
Nevada Petroleum Marketers & Convenience Store Association  
Nevada Propane Dealers Association  
Retail Association of Nevada  
Western States Petroleum Association

Interested persons may obtain a copy of the summary of the small business survey by contacting:

Nevada Department of Agriculture  
Division of Consumer Equitability  
Attn: Cadence Matijevich, Administrator  
405 South 21st Street .  
Sparks, NV 89431  
Phone: 775-353-3726 Email: c.matijevich@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 regulation was adopted on August 18, 2018 and included changes suggested/requested at the workshop on August 2, 2018 to clarify when the fees established in NAC 581.210 may be charged, and to reduce the amount of the increase to the annual license fees for commercial weighing and measuring devices.
7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
  - (a) Estimated economic effect on the businesses which they are to regulate.
  - (b) Estimated economic effect on the public.

Economic effect on business

- a) Both adverse and beneficial effects

Adverse: Businesses using weighing and measuring devices as commercial weighing and measuring equipment will incur higher costs for the licensing and testing of such equipment.

Beneficial: The additional fees collected by the Division of Consumer Equitability will be used to hire additional Weights and Measures inspectors and to purchase new/replacement equipment that will allow it to respond to service requests from business more quickly and to perform inspections more efficiently and/or effectively. The increased number of inspectors will allow for weighing and measuring equipment to be inspected more frequently. Such inspections may identify devices that are out of tolerance to the detriment of the business owner.

- b) Both immediate and long-term effects

Immediate: The proposed regulation is intended to be effective July 1, 2019. The increased fee amounts included in the proposed regulations would be billed at the higher amounts as of July 1, 2019, thereby immediately increasing the cost of conducting business.

Long-term: The hiring of additional Weights and Measures inspectors will increase the level of support available to businesses in confirming the proper operation of commercial weighing and measuring equipment.

Economic effect on the public

- a) Both adverse and beneficial effects

Adverse: If businesses using weighing and measuring devices as commercial weighing and measuring equipment choose to pass along the increased costs for licensing and testing of such equipment to their customers the public would pay more for the goods and services provided by such businesses.

Beneficial: The additional fees collected by the Division of Consumer Equitability will be used to hire additional Weights and Measures inspectors and to purchase new/replacement equipment that will allow it to respond to consumer complaints more quickly. The increased number of inspectors will allow for weighing and measuring equipment to be

inspected more frequently, to perform additional checking of packaged products, and to perform additional price verification activities throughout the state. These activities serve to protect consumers by ensuring that commercial weighing and measuring equipment is operating properly, that packaged products contain the amount stated on the package, and that prices charged at the point of sale are not higher than shelf and/or advertised prices.

b) Both immediate and long-term effects

Immediate: The proposed legislation is not anticipated to have an immediate effect on the public.

Long-term: Should the owners of commercial weighing and measuring equipment choose to pass along the increased cost of conducting business resulting from the increased fee amounts included in the proposed regulations, the public will incur higher costs for certain goods and services.

The hiring of additional Weights and Measures inspectors will increase the level of support available to the public to confirm the proper operation of commercial weighing and measuring equipment, the receipt of proper quantities in packaged products, and that they are charged the accurate price for goods at the point of sale.

**8. 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 581 will increase as result of the proposed regulations. The agency anticipates one-time costs of approximately \$800 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 governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulations do not duplicate federal, state or local standards. The Packers and Stockyards Program (PSP) of the United States Department of Agriculture enforces the Packers and Stockyards Act, 1921, which requires that each stockyard owner, market, agency, dealer, packer or live poultry dealer who weighs livestock, live poultry, or feed for purchases of purchase, sale, acquisition, payment or settlement of livestock or live poultry, or who weighs livestock carcasses for the purpose of purchase on a carcass weight basis, or who furnished scales for such purposes, shall cause such scales to be tested by competent persons in accordance with the regulations in the act at least twice during each calendar year at intervals of approximately 6 months. An exception is granted if scales are used on a limited seasonal basis (during any continuous 8-month period) that the scales may be used during within an 8-month period following each test. The test performed by the Division of Consumer Equitability in association with the annual registration of a livestock scale serves to satisfy one test for those device owners subject to the PSP six-month inspection cycle and

may, depending upon timing of the inspection within an 8-month period, entirely satisfy the PSP testing requirement for those scales used on a limited seasonal basis.


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

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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. Sections 2, 3 and 6 of the proposed regulations increase existing fees and establish new fees.

The agency estimates the amounts collected annually from the fees included in this regulation will total \$1,703,798. The money will be used to fund the costs of the Division of Consumer Equitability, including personnel, operations, equipment and vehicle expenses.

Submitted by:

  
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**Jerri Conrad**  
**Interim Director**  
**Nevada Department of Agriculture**

Date:

10/23/18