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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

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**PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE
STATE SEALER OF CONSUMER EQUITABILITY**

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

Notice of Hearing for the Adoption of Permanent Regulations Nevada Administrative Code chapters 581 and 582

LCB File No. R079-20

The Nevada Department of Agriculture (NDA) will hold a virtual public hearing at 8:30 a.m. on the 19th of January 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=m810c0f51d310dfec4195546a8c168b89>

Meeting number (access code): 126 208 0972

Meeting password: UeSHx4hmk93 (83749446 from phones and video systems)

Phone

+1-408-418-9388 United States Toll

Password 837 49 446

[Global call-in numbers](#)

Video system, application or Skype for business

Dial [1262080972@webex.com](tel:1262080972)

You can also dial 173.243.2.68 and enter the 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 581 and 582 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.

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 581.030 establishes the Director of the State Department of Agriculture as ex officio State Sealer of Equitability. NRS 581.050 provides that the State Sealer of Equitability may adopt regulations necessary to carry out the provisions of NRS chapter 581. NRS 582.021 provides that the State Sealer of Consumer Equitability shall adopt reasonable regulations for the enforcement of NRS chapter 582. NRS 581.075 provides that the State Sealer of Equitability may establish a schedule of fees for any tests of weighing and measuring devices that the State Sealer of Consumer Equitability determines to be necessary; and that the State Sealer of Consumer Equitability may establish an annual license fee for all commercial weighing and measuring equipment. NRS 582.021 provides that the State Sealer of Consumer Equitability shall adopt reasonable regulations for the enforcement of NRS chapter 582. The need for and the purpose of the proposed regulations and amendments is as follows:

Sec. 1. Establishes sections 2 and 3 as amendments to chapter 581 of NAC.

Sec. 2. Adds a new section to the regulations which requires notice to DCE within ten days when ownership of a weighing or measuring device which has been licensed as commercial weighing and measuring equipment has been transferred to another person and requires the State Sealer to re-issue the license in the name of the new owner, provided that the device is to be operated at the same physical location as that of the original owner. This addition is necessary to allow DCE to maintain accurate records of holders of commercial weighing and measuring equipment in this state.

Further, this section establishes that if a device for which ownership has been transferred is to be operated at a different location than that of the original owner, the new owner shall be required to obtain a new license and pay the associated license fee. This is necessary for DCE to recover the costs to inspect the device once it has been installed at the new location.

Sec. 3. Adds a new section to the regulations which requires notice to DCE within ten days of transfer of commercial weighing and measuring equipment from the business location indicated on the device license. This addition is necessary to allow DCE to maintain accurate records of the location of commercial weighing and measuring equipment in this state. Further, this requires DCE to inspect the device and, if the device is found to meet all applicable standards and the license fee has been paid in full, to issue a license for the device at the new business location. This is necessary for DCE to recover the costs to inspect the device once it has been installed at the new location.

Sec. 4 - 7. These sections are needed to update the address of the NDA office in Sparks, to add information for the internet website where a person may access National Institute of Standards of Technology (NIST) Handbooks 44, 105-series, 130 and 133 free of charge, to update the name and address of the entity from which hard copy versions of these NIST Handbooks may be purchased, and to update the purchase price for these NIST Handbooks to the current cost charged by the publisher.

Sec. 8. – This section revises NAC 581.210 to add to the list of tests, inspections and services for which certain fees for re-inspection or a special trip for testing or inspection may be charged the following:

- Commercial weighing and measuring equipment for which a repair notice, stop-use order, hold order or other such notice of violation was issued by the NDA Division of Consumer Equitability (DCE)
- Point-of-sale systems found not to be in compliance during a test or inspection by DCE
- Packaged commodities found not to be in compliance during a test or inspection by DCE
- Commodities for which the method of sale was found not to be in compliance during a test or inspection by DCE
- Commodities for which the price at the point of sale was not consistent with the advertised price during a test or inspection by DCE
- A weighing or measuring device which was not available or ready for testing during normal business hours or at the time scheduled for a special test or inspection;

The addition of these tests, inspections and services is necessary to allow DCE to recover the costs incurred to perform the tests, inspections and services directly from those businesses which are out of compliance with established standards.

This section specifies that inspection or testing of licensed commercial weighing and measuring equipment at a time scheduled specifically for the convenience of the device owner shall be considered a special trip. This will allow for DCE to recover costs incurred to perform tests at a time other than that which would be most efficient for the agency.

This section establishes a separate fee schedule for retesting or reinspection of a commercial devices which has been repaired or adjusted for which no follow-up trip is required by DCE to perform such retesting or reinspection. These fees are lower than retests or reinspection which require a follow-up trip and are therefore more reflective of the actual cost to the agency to perform the retest or reinspection.

This section establishes a fee for time spent by DCE to witness the test of a device which is not conducted by DCE and provides that such fee is applicable for any test or inspection conducted for the purposes within the section. The establishment of this fee as separate from that which is charged when DCE is performing the test is a more equitable method by which to charge this fee because it does not include cost recovery for equipment or materials which are not being used.

This section establishes a fee for time spent by DCE for the re-inspection and/or retesting of packaged commodities, labels, advertised prices or commodity method of sale. The addition of this fee is necessary to allow DCE to recover the costs incurred to perform the re-tests and re-inspections directly from those businesses which are out of compliance with established standards.

Sec. 9. NAC 590.220 - adds the following to the list of tests, inspections and services for which certain additional fees for special tests or inspections may be charged:

- Point-of-sale systems found not to be in compliance during a test or inspection by DCE
- Commodity labels found to be out of compliance during a test or inspection by DCE
- Packaged commodities found to be out of compliance during a test or inspection by DCE
- Commodities for which the method of sale was found to be out of compliance during a test or inspection by DCE
- Commodities for which the price at the point of sale was not consistent with the advertised price during a test or inspection by DCE

The addition of this fee is necessary to allow DCE to recover the costs incurred to perform the re-tests and re-inspections directly from those businesses which are out of compliance with established standards.

This section revises the increments of time for which certain fees may be charged from hourly to fifteen-minute time periods or portions thereof and revises the fees charged for time from \$60 per hour to \$15 per fifteen-minute time period or portion thereof. The purpose of this change is to more accurately reflect and charge for time spent conducting re-tests and re-inspections. By reducing the time increment for which fees are charged, many businesses subjected to the fee will incur lower costs.

This section eliminates the limitation on charging the fees established pursuant to this section on trips made within a minimal distance from the base of the inspector or within the same metropolitan area as the inspector. The purpose of this change is to eliminate an inequity between rural and urban business owners, whereby rural business owners are subject to fees which urban businesses are not. These fees are only charged to businesses found to be out of compliance with standards and regulations and the application of fees to only those businesses which are outside of inspector base locations unfairly exempts business owners in urban areas from paying the full amount necessary for the agency to recover the costs.

Sec. 10. - 11. Clarifies that DCE will reinstate a suspended license for commercial weighing and measuring equipment when the device passes reinspection or is otherwise approved for use by the State Sealer of Consumer Equitability. This clarification is necessary to allow for reinstatement of a license for a device which has been approved for use pursuant to the conditions added under Section 13 of this proposed regulation.

Sec. 12. Revises the fee schedule for annual licensing of commercial weighing and measuring equipment and specifies that license fees are non-refundable and shall not be prorated. The current fees do not provide for adequate recovery of the agency's costs to license and perform an inspection of the device as required by NAC 581.285 Subsection 2. (b). The purpose of the proposed fees is to recover a greater percentage of the costs incurred to license the devices and perform the inspections associated with such licensing, so that DCE has sufficient funding to sustain its operations.

Sec. 13. Authorizes a waiver of DCE inspection of a weighing or measuring device which has been repaired or adjusted following being tagged as in need of repairs or out of order, provided that sufficient evidence is submitted to DCE to give reasonable assurance that the device complies with the provisions of NIST Handbook 44 and allows the State Sealer of Consumer Equitability to approve and cause such devices to be marked as approved for use. This is necessary to eliminate a disincentive for device owners to have their

equipment routinely maintained by a Registered Service Agent basis because they are currently required to have a re-inspection following any adjustment of the device, which would subjects the device owner to the fees established in NAC 581.210 and 581.220. This also addresses an issue which has been of particular concern to livestock and other large-capacity scale owners due to the high cost of having a service agent perform adjustment or repairs to their scales following a DCE inspection which found the scale out of compliance and then have to pay a fee to DCE to re-test the device solely for the purpose of applying a state seal to the device.

Sec. 14. Establishes a period of validity for a public weighmaster license. The purpose of this addition is to clearly establish the date on which a public weighmaster license expires.

Sec. 15. Establishes a fee for late renewal of a public weighmaster license. The purpose of this addition is to serve as a deterrent to late renewals and to recover the administrative costs of processing late applications.

Sec. 16. Repeals NAC 582.020, eliminating the requirement that a public weighmaster file a faithful performance bond in the amount of \$1,000 with the State Sealer of Consumer Equitability. The purpose of this change is to remove the requirement for a bond which the agency has no record of ever having taken action to collect against from any public weighmaster and which may serve as a barrier to entry for potential small businesses who wish to perform public weighing. The agency has the authority to issue civil and criminal penalties to public weighmasters who act in violation of the provisions of NRS chapter 582 and believes these are sufficient mechanisms by which to hold public weighmasters accountable for such actions.

Sec. 17. establishes the effective dates for this regulation. Sections 1 – 11, inclusive, and 13 to 16, inclusive, shall be effective upon adoption. Section 12 shall be effective July 1, 2022.

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 regulation is 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 ce@agri.nv.gov or 775-353-3783. Requests should specify LCB File No. R079-20

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 using weighing and measuring devices as commercial weighing and measuring equipment will incur higher costs for the licensing and testing of such equipment. Businesses in violation of the provisions of NRS chapter 581 and NAC chapter 581 who were not previously subject to fees for re-inspection and re-testing when they were found to be out of compliance will incur new costs.

Beneficial: The additional fees collected by the Division of Consumer Equitability will be utilized 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. Such inspections may identify devices that are out of tolerance to the detriment of the business owner. Waiver of inspections under certain circumstances will reduce costs for certain weighing and measuring device owners and will remove a disincentive for device owners to routinely have their devices serviced and adjusted.

b) Both immediate and long-term effects

Immediate: The majority of proposed the regulation is intended to be effective upon adoption, so businesses would be immediately subject to any resulting effects.

Long-term: The revised fees in Section 11, which represent the most significant economic impact to businesses, are proposed to be effective as of July 1, 2022.

Economic effect on the public

a) Both adverse and beneficial effects

Adverse: If businesses subject to the new or increased fees included in the regulations choose to pass along the increased costs to their customers the public would pay more for the goods and services provided by such businesses.

Beneficial: The imposition of fees for re-inspection for violations of regulations concerning point-of-sale systems, labeling, packaged commodities, method of sale, and advertised prices and price representations may result in fewer violations of these regulations. 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 the owners of commercial weighing and measuring equipment, point-of-sale systems, and packaged commodities choose to pass along to their customers any increased cost of conducting business resulting from the fee amounts included in the proposed regulations, the public will incur higher costs for certain goods and services.

Cost recovery by the agency 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.

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

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 2,303 commercial weighing and measuring device owners. The survey was open for response from October 16, 2020 through October 30, 2020. A total of 68 survey responses were received.

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 581 and NAC 582 will increase as 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.

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 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 DCE 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.

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

The proposed regulation is 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.

Section 5 increases existing fees and establishes new fees. Sections 6 and 11 revise 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.)

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 ce@agri.nv.gov. Written submissions must be received by the Nevada Department of Agriculture before 5:00 p.m. on January 15, 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 Consumer Equitability
405 South 21st Street
Sparks, NV 89431
Phone: 775-353-3792 Email: ce@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.



**ADOPTION HEARING AGENDA
NEVADA DEPARTMENT OF AGRICULTURE
STATE SEALER OF CONSUMER EQUITABILITY
Tuesday, January 19, 2021
8:30 a.m. PST**

Webex:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=m810c0f51d310dfec4195546a8c168b89>

Meeting number (access code): 126 208 0972

Meeting password: UeSHx4hnk93 (83749446 from phones and video systems)

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+1-408-418-9388 United States Toll

Password 837 49 446

[Global call-in numbers](#)

Video system, application or Skype for business

Dial [1262080972@webex.com](tel:1262080972)

You can also dial 173.243.2.68 and enter the meeting number.

COVID-19 Notice

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

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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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Telephone (775) 738-8076
Fax (775) 738-2693

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 581 and 582 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, ce@agri.nv.gov, or (775) 353-3783. In your request, please state that you are requesting materials for the adoption hearing on January 19, 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 775-353-3783 at least three (3) business days prior to the meeting.

Nevada Department of Agriculture
Attn: Brett Fisher
405 S. 21st Street
Sparks, NV 89431
Via email: bafisher@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/>.

**PROPOSED REGULATION OF THE
STATE SEALER OF CONSUMER EQUITABILITY**

LCB File No. R079-20

December 16, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-7, 13 and 17, NRS 581.050 and 581.067; §§8, 9 and 12, NRS 581.050, 581.067 and 581.075; §§10 and 11, NRS 581.050, 581.057, 581.065 and 581.067; §§14 and 16, NRS 582.021 and 582.025; §15, NRS 582.021, 582.025 and 582.040.

A REGULATION relating to measurement standards; providing requirements for a person who holds a license to use a weighing or measuring device as commercial weighing and measuring equipment to transfer ownership or operation of the device; establishing the process for moving a weighing or measuring device licensed as commercial weighing and measuring equipment to a new location; updating certain information relating to primary and secondary standards adopted by reference; revising certain fees charged for inspections and testing of certain weighing or measuring devices; revising certain fees charged for travel to and time spent inspecting and testing certain devices and commodities; providing that certain devices must pass a reinspection for a suspended license to be reinstated; revising certain fees charged by the Division of Consumer Equitability of the State Department of Agriculture for licensing certain weighing or measuring devices; authorizing the Division to waive the inspection of a weighing or measuring device that has been repaired or adjusted; establishing the term of a license as a public weighmaster; imposing a late fee for failing to timely pay the licensing fee as a public weighmaster; repealing the bond requirements of a public weighmaster; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Sealer of Consumer Equitability to adopt regulations necessary to carry out the provisions governing weights and measures. (NRS 581.050, 581.067)

Existing regulations require a person to obtain a license to use a weighing or measuring device as commercial weighing and measuring equipment. (NAC 581.280) Existing regulations require such a license to be renewed annually and that the license holder pay certain fees for the annual licensing of the device. (NAC 581.285, 581.295) **Section 2** of this regulation authorizes a license holder to transfer ownership or operation of a weighing or measuring device to another person. **Section 2** also requires the license holder to notify the Division of Consumer Equitability of the State Department of Agriculture not later than 10 days after the transfer occurs. **Section 2**

further provides that: (1) if the device will remain at the original physical location, the State Sealer of Consumer Equitability will reissue the license in the name of the new owner or operator; and (2) if the device will be used at a different location, the new owner or operator must apply for a new license and pay the appropriate fee. **Section 3** of this regulation authorizes a license holder to move the device to a new location and requires the license holder to notify the Division not later than 10 days after the move occurs. **Section 3** also establishes the process for how the Division will inspect the device that is moved to a new location.

Existing law requires the State Sealer of Consumer Equitability to adopt regulations establishing primary and secondary standards for weights and measures for use in this State. (NRS 581.067) Existing regulations adopt by reference such primary and secondary standards. (NAC 581.009-581.050) **Sections 4-7** of this regulation revise where such standards can be obtained and how they may be purchased.

Existing law requires the State Sealer of Consumer Equitability to conduct various inspections and tests. (NRS 581.067) Existing law also authorizes the State Sealer of Consumer Equitability to establish a schedule of fees for any necessary tests of weighing and measuring devices and existing regulations establish the fees. (NRS 581.075, NAC 581.210, 581.220) **Section 8** of this regulation revises the fees for various inspections and tests of certain scale devices, linear devices and meter devices. **Section 9** of this regulation revises the fees charged for travel to and time spent on various inspections and tests of certain devices and commodities.

Existing regulations provide that if a weighing or measuring device fails inspection at the time the license is issued or renewed, the Division will immediately suspend the license for the device. If the device passes a subsequent inspection, the Division will reinstate the license. If the device fails to pass the subsequent inspection, the Division may revoke the license. (NAC 581.280, 581.285) **Sections 10 and 11** of this regulation provide that: (1) if the device passes a reinspection or the State Sealer of Consumer Equitability otherwise approves the device for use, the Division will reinstate the license; and (2) if the device fails to pass a reinspection, the Division may revoke the license.

Existing regulations set forth the fees for the annual licensing of weighing or measuring devices. (NAC 581.295) **Section 12** of this regulation revises the fees and provides that any fee required for the licensing of a weighing or measuring device is nonrefundable and will not be prorated for any period of the term of the license.

Existing regulations require the State Sealer of Consumer Equitability to conduct an inspection of a weighing or measuring device that has been repaired or adjusted to determine that the device complies with the provisions set forth in the *National Institute of Standards and Technology Handbook 44*. (NAC 581.360) **Section 13** of this regulation authorizes the Division to waive the inspection requirement if the owner of the device submits sufficient evidence that the device complies with those provisions.

Existing law sets forth the process for how a person may be licensed as a public weighmaster. (NRS 582.028-582.049) Existing law requires the State Sealer of Consumer Equitability to issue a license as a public weighmaster if the State Sealer of Consumer Equitability is satisfied with the qualifications of the applicant. (NRS 582.040) **Section 14** of this

regulation provides that the term of such a license is from January 1 or the date on which it is issued, whichever is later, to December 31. Existing law requires the State Sealer of Consumer Equitability to charge a licensing fee and existing regulations establish the fee. (NRS 582.040, NAC 582.025) **Section 15** of this regulation imposes a late fee equal to 10 percent of the underlying fee if the underlying fee is not paid by its due date.

Existing regulations establish the bonding requirements of a public weighmaster. (NAC 582.020) **Section 16** of this regulation repeals the bonding requirements.

Section 1. Chapter 581 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment pursuant to NAC 581.280 and 581.295 may transfer ownership or operation of the weighing or measuring device to another person.*

2. A person who transfers ownership or operation of a weighing or measuring device pursuant to subsection 1 shall provide notice of the transfer to the Division on a form prescribed by the State Sealer of Consumer Equitability not later than 10 days after the transfer occurs.

3. If the weighing or measuring device is to be operated at the same physical location where it was operated by the original owner, the State Sealer of Consumer Equitability will, upon receiving the notice of transfer required by subsection 2, reissue the license to use the weighing or measuring device as commercial weighing or measuring equipment in the name of the new owner or operator.

4. If the weighing or measuring device is to be operated at a different physical location than where it was operated by the original owner, the new owner or operator must apply for a new license pursuant to NAC 581.280 and pay the fee for the annual licensing of the device set forth in NAC 581.295.

Sec. 3. 1. *A person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment pursuant to NAC 581.280 and 581.295 may move the device to a location different than the location indicated in the information submitted pursuant to NAC 581.280.*

2. A person who moves a weighing or measuring device to a different location pursuant to subsection 1 shall provide notice of the move to the Division on a form prescribed by the State Sealer of Consumer Equitability not later than 10 days after the move occurs.

3. Except as otherwise provided in subsection 4, upon receiving the notice required by subsection 2, the Division will, as soon as practicable, inspect the device. If the Division determines that the device meets all the applicable standards and the owner or operator of the device has paid the fee for the annual licensing of the device pursuant to NAC 581.295, the Division will issue a license for the device to be used as commercial weighing and measuring equipment at the new location.

4. The Division may waive the inspection required by subsection 3 if the Division determines that the device was adjusted after installation by a person who is registered with the Division pursuant to NRS 581.103 to adjust such a device. If the Division waives the inspection and the owner or operator of the device has paid the fee for the annual licensing of the device pursuant to NAC 581.295, the Division will:

(a) Immediately issue a license for the weighing or measuring device to be used as commercial weighing and measuring equipment at the new location; and

(b) As soon as practicable thereafter, inspect the device to ensure that it meets all the applicable standards.

Sec. 4. NAC 581.009 is hereby amended to read as follows:

581.009 1. The State Sealer of Consumer Equitability hereby adopts by reference the National Institute of Standards and Technology 105-Series Handbooks and Training Materials, as those publications existed on January 1, 2003, and any subsequent revision to those publications issued by the National Institute of Standards and Technology, which has been approved by the State Sealer of Consumer Equitability for use in this State. Each new revision shall be deemed approved by the State Sealer of Consumer Equitability unless he or she disapproves the revision within 60 days after the date of publication by the National Institute of Standards and Technology.

2. The State Sealer of Consumer Equitability will review each revision issued after January 1, 2003, to ensure its suitability for this State and file a copy of each revision he or she approves with the Secretary of State and the State Library, Archives and Public Records Administrator. The most recent revision that has been approved by the State Sealer of Consumer Equitability ~~[will]~~:

(a) *Will* be available for inspection at the office of the ~~[Bureau of Weights and Measures,]~~ Division of Consumer Equitability, ~~[2150 Frazer Avenue,]~~ *405 South 21st Street*, Sparks, Nevada 89431 ; ~~[;]~~ or ~~[may]~~

(b) *May* be ~~[obtained]~~ *accessed* free of charge ~~[from the Weights and Measures Division, NIST, 100 Bureau Drive, STOP 2600, Gaithersburg, Maryland 20899-2600, or]~~ at ~~[http://ts.nist.gov.]~~ <https://www.nist.gov/pml/weights-and-measures/publications/nist-handbooks/other-nist-handbooks/other-nist-handbooks-2>.

Sec. 5. NAC 581.011 is hereby amended to read as follows:

581.011 1. The State Sealer of Consumer Equitability hereby adopts by reference the *National Institute of Standards and Technology Handbook 44*, 2003 edition, and any subsequent

edition issued by the National Institute of Standards and Technology, which has been approved by the State Sealer of Consumer Equitability for use in this State. Each new edition shall be deemed approved by the State Sealer of Consumer Equitability unless he or she disapproves the edition within 60 days after the date of publication by the National Institute of Standards and Technology.

2. The State Sealer of Consumer Equitability will review each edition issued after the 2003 edition to ensure its suitability for use in this State and file a copy of each edition he or she approves with the Secretary of State and the State Library, Archives and Public Records Administrator. The most recent edition that has been approved by the State Sealer of Consumer Equitability ~~will~~ :

(a) *Will* be available for inspection at the office of the ~~Bureau of Weights and Measures,~~ Division of Consumer Equitability, ~~2150 Frazer Avenue,~~ *405 South 21st Street*, Sparks, Nevada 89431 ~~;~~;

(b) *May be accessed free of charge at <https://www.nist.gov/pml/weights-and-measures/publications>*; or ~~may~~

(c) *May* be purchased by mail from the ~~Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000,~~ *National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, Nebraska 68508*, or by telephone at ~~(866) 512-1800,~~ *(402) 434-4880*, for the price of ~~[\$40.]~~ *\$46*.

3. A violation of a provision of the handbook adopted by reference in subsection 1 shall be deemed a violation of this chapter.

Sec. 6. NAC 581.030 is hereby amended to read as follows:

581.030 1. The State Sealer of Consumer Equitability hereby adopts by reference:

- (a) The “Examination Procedure for Price Verification”;
- (b) The “Uniform Packaging and Labeling Regulation”;
- (c) The “Uniform Regulation for the Method of Sale of Commodities”;
- (d) The “Uniform Unit Pricing Regulation”;
- (e) Sections 2 to 11, inclusive, of the “Uniform Regulation of Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices”;
- (f) The “Uniform Open Dating Regulation”; and
- (g) The “Uniform Regulation for National Type Evaluation,”

↪ as set forth in the *National Institute of Standards and Technology Handbook 130: Uniform Laws and Regulations*, 2003 edition, and any subsequent revision of that portion of the publication that has been approved by the State Sealer of Consumer Equitability for use in this State. Each revision of that portion of the publication shall be deemed approved by the State Sealer of Consumer Equitability unless he or she disapproves of the revision within 60 days after the date of publication of the revision by the National Institute of Standards and Technology.

2. The State Sealer of Consumer Equitability will review each revision to ensure its suitability for this State and file a copy of each revision he or she approves with the Secretary of State and the State Library, Archives and Public Records Administrator. The most recent revision that has been approved by the State Sealer of Consumer Equitability ~~{will}~~:

(a) *Will* be available for inspection at the office of the ~~{Bureau of Weights and Measures,}~~ Division of Consumer Equitability, ~~{2150 Frazer Avenue,}~~ *405 South 21st Street*, Sparks, Nevada 89431 ~~{}~~;

(b) *May be accessed free of charge at <https://www.nist.gov/pml/weights-and-measures/publications>*; or ~~{may}~~

(c) *May* be purchased by mail from the ~~[Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000,]~~ *National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, Nebraska 68508*, or by telephone at ~~[(866) 512-1800,]~~ *(402) 434-4880*, for the price of ~~[\$31.50.]~~ *\$40*.

3. A violation of any provision of that portion of the publication adopted by reference in subsection 1 shall be deemed a violation of this chapter.

Sec. 7. NAC 581.050 is hereby amended to read as follows:

581.050 1. The *National Institute of Standards and Technology Handbook 133* is hereby adopted by reference as the official procedure for the methods of checking the net contents of packaged commodities for compliance with respect to net weight, count or measure. The publication, including supplements ~~[, is]~~ :

(a) *Is* available for inspection at the office of the ~~[Bureau of Weights and Measures,]~~ Division of Consumer Equitability, ~~[2150 Frazer Avenue,]~~ *405 South 21st Street*, Sparks, Nevada 89431 ~~[,]~~ ;

(b) *May be accessed free of charge at <https://www.nist.gov/pml/weights-and-measures/publications>*; or ~~[may]~~

(c) *May* be purchased by mail from the ~~[Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000,]~~ *National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, Nebraska 68508*, or by telephone at ~~[(866) 512-1800,]~~ *(402) 434-4880*, for the price of ~~[\$15.]~~ *\$27*.

2. A violation of a provision of the handbook adopted by reference in subsection 1 shall be deemed a violation of this chapter.

Sec. 8. NAC 581.210 is hereby amended to read as follows:

581.210 1. The *inspections*, tests and services for which fees will be charged pursuant to this section include, without limitation:

(a) A *reinspection or* retest of:

(1) A device *found to not be in compliance during an inspection or test conducted pursuant to subsection 2, 7, 10, 11, 12 or 22 of NRS 581.067 and for* which ~~was marked~~ *a notice or order stating “repair,” “stop-use,” “hold,” “out of order”* ~~during a test;~~ *or some other such notice or order was issued by the State Sealer of Consumer Equitability;*

(2) *A packaged commodity found to not be in compliance during an inspection or test conducted pursuant to subsection 14 of NRS 581.067 and for which an order stating “hold” or “stop-use” or some other such order was issued by the State Sealer of Consumer Equitability;*

(3) *A commodity for which the method of sale was found to not be in compliance during an inspection or test conducted pursuant to subsection 15 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Consumer Equitability; or*

(4) *A commodity for which the advertised price was found to not be in compliance during an inspection or test conducted pursuant to subsection 18 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Consumer Equitability.*

(5) A point-of-sale system or cash register found to not be in compliance during a test conducted pursuant to subsection 19 of NRS 581.067.

↪ If, upon the arrival of the inspector during normal business hours, a reinspection or retest described in subparagraphs (1) to (5), inclusive, cannot be performed for any reason which is

not the fault of the Division or the inspector, any fee which would have been charged for the reinspection or retest remains due.

(b) A trip to *inspect or* test a device which was not available or ready for *inspection or* testing at the time ~~[scheduled]~~ :

(1) Of a routine inspection or test conducted on any commercial premises during normal business hours pursuant to subsection 11 of NRS 581.067; or

(2) Scheduled for a special trip to inspect or test ~~[.]~~ a device.

(c) ~~[A]~~ *An inspection or* test requested for a device if a special trip is required to perform the *inspection or* test. If, upon the arrival of the inspector, the *inspection or* test scheduled for the device cannot be performed for any reason which is not the fault of the Division or the inspector, any fee which would have been charged for that *inspection or* test remains due.

(d) A test requested for a noncommercial device.

(e) A calibration according to industrial standards of weights and measures.

(f) An adjustment of a commercial device immediately following a determination of noncompliance during a test conducted by the Division.

2. The fees for *inspections and* tests of devices conducted by the Division pursuant to this section are:

(a) For scale devices:

500 pounds and under tested with a Class F, Echelon III weight kit	\$32
500 pounds and under tested with a Class II, Echelon II weight kit	45
Over 500 pounds through 2,000 pounds.....	90
Over 2,000 pounds through 5,000 pounds.....	240
Over 5,000 pounds through 30,000 pounds.....	420

Over 30,000 pounds.....	450
Hopper, 5,000 pounds and under.....	600
Hopper, over 5,000 pounds	750
(b) For linear devices	42
(c) For meter devices:	
Dispenser, hose, meter or octane grade tested with a 5-gallon prover.....	30
Dispenser tested with a prover larger than 5 gallons.....	222
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute	222
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute	420
Nontemperature-compensated meter used to measure liquid petroleum gas.....	222
Temperature-compensated meter used to measure liquid petroleum gas	450
(d) For standards of mass, volume or length, per hour:	
For certification of standards for use in testing a commercial device for a service agency or serviceperson.....	75
For certification of standards for use in testing a noncommercial device.....	95
(e) For point-of-sale systems and cash registers not in compliance:	
For not more than five point-of-sale systems or cash registers	50

For six or more point-of-sale systems or cash registers 125

3. *The fees for reinspecting or retesting a commercial device which has been repaired or adjusted following a determination of noncompliance pursuant to subsection 1 and for which no follow-up trip is required to perform the reinspection or retest are:*

(a) *For scale devices:*

500 pounds and under tested with a Class F, Echelon III

weight kit \$16

500 pounds and under tested with a Class II, Echelon II

weight kit 23

Over 500 pounds through 2,000 pounds 45

Over 2,000 pounds through 5,000 pounds 120

Over 5,000 pounds through 30,000 pounds 210

Over 30,000 pounds 250

Hopper, 5,000 pounds and under 300

Hopper, over 5,000 pounds 375

(b) *For linear devices 21*

(c) *For meter devices:*

Dispenser, hose, meter or octane grade tested with a 5-gallon

prover 15

Dispenser tested with a prover larger than 5 gallons 111

Truck- or rack-mounted meter, rated to a maximum capacity 111

<i>of up to 120 gallons per minute</i>	
<i>Truck- or rack-mounted meter, rated to a maximum capacity</i>	
<i>of over 120 gallons per minute</i>	<i>210</i>
<i>Nontemperature-compensated meter used to measure liquid</i>	
<i>petroleum gas</i>	<i>111</i>
<i>Temperature-compensated meter used to measure liquid</i>	
<i>petroleum gas</i>	<i>225</i>

4. The fee for each 15-minute time period, or portion thereof, required to witness an inspection or test of a device which is not conducted by the Division or the State Sealer of Consumer Equitability is \$15.

5. The fee for each 15-minute time period, or portion thereof, required to conduct a reinspection or retest of labels, packaged commodities, advertised prices or commodity methods of sale is \$15.

6. Failure to pay a fee required pursuant to this section by the due date indicated on the bill, which must not be less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalty that may be imposed pursuant to NAC 581.260, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

7. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring devices at a time scheduled specifically for the convenience of the owner of such devices.

Sec. 9. NAC 581.220 is hereby amended to read as follows:

581.220 1. In addition to the fees prescribed in NAC 581.210, the following fees will be charged for ~~[a]~~ *an inspection or test conducted during a special trip* ~~[test]~~ except as otherwise provided in this section:

(a) For each ~~[hour]~~ *15-minute period, or portion thereof*, for *inspecting* *or* testing a device *or commodity* above the time normally required to perform that test.....~~[\$60]~~ *\$15*

(b) ~~[For each hour for witnessing the test of a device that is not conducted by the Division]~~.....~~[60]~~

~~[(e)]~~ For mileage, per mile for:

- Pickup truck..... 1
- Petroleum prover truck..... 3
- Test truck for scale devices over 2,000 pounds..... 4

~~[(d)]~~ (c) For each ~~[hour]~~ *15-minute period, or portion thereof*, of required travel of the inspector, in addition to the fees specified in paragraph ~~[(e)]~~ (b)~~[60]~~ *15*

~~[(e)]~~ (d) For the per diem of the inspector, the amounts allowed by law for state employees, under conditions set by the Division.

2. The fees for mileage, travel and per diem will be prorated among persons requiring *inspections or* tests of devices *or commodities* in the same area if all the devices *or commodities* can be *inspected or* tested during the same trip.

3. Only the fee prescribed by NAC 581.210 for ~~[a]~~ *an inspection or* test of a device *or commodity* will be charged if ~~[-]~~

~~—(a) The] *the inspection or* test can be made during a scheduled trip for *other* inspections *or tests* in the vicinity . [; or~~

~~—(b) The site of the test is within a minimal distance from the base of the inspector or within the same metropolitan area.]~~

4. The amount of charges for:

(a) The testing of devices or standards not listed on the schedule of fees;

(b) Testing of standards from out of State; or

(c) Testing which requires special arrangements or conditions,

↪ will be determined by agreement between the State Sealer of Consumer Equitability and the owner or operator of the device or standard to be tested.

5. Failure to pay a fee required pursuant to this section by the due date indicated on the bill for the fee, which must be not less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalty that may be imposed pursuant to NAC 581.260, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

6. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring devices at a time scheduled specifically for the convenience of the owner of such devices.

Sec. 10. NAC 581.280 is hereby amended to read as follows:

581.280 1. To obtain a license to use a weighing or measuring device as commercial weighing and measuring equipment, an applicant must provide to the Division information concerning the device, including:

(a) The date on which the device was purchased or installed;

- (b) The manufacturer and model or type of the device;
- (c) The address where the device is located; and
- (d) The name of the person who installed the device.

2. Except as otherwise provided in this section, upon receiving the information pursuant to subsection 1 about a weighing or measuring device, the Division will, as soon as practicable, inspect the device. If the Division determines that the device meets all the applicable standards and the applicant has paid the applicable fees, the Division will issue a license for the device to be used as commercial weighing and measuring equipment.

3. The Division may waive the initial inspection of a weighing or measuring device required pursuant to subsection 2 if the Division determines that the device was adjusted after installation by a person who is registered with the Division pursuant to NRS 581.103 to adjust such a device. If the Division waives the initial test, the Division will:

- (a) Immediately issue a license for the weighing or measuring device to be used as commercial weighing and measuring equipment; and
- (b) As soon as practicable thereafter, inspect the device to ensure that it meets all the applicable standards.

4. If a weighing or measuring device fails an inspection conducted pursuant to subsection 3, the Division will immediately suspend the license issued for the device. If, during the period for which the license was issued, the device:

- (a) Passes ~~[an inspection]~~ *a reinspection* conducted by the Division, *or is otherwise approved for use by the State Sealer of Consumer Equitability*, the Division will reinstate the license.

(b) Fails to pass ~~[an inspection]~~ *a reinspection* conducted by the Division, the Division may revoke the license.

5. A license issued for a weighing or measuring device to be used as commercial weighing and measuring equipment is valid from September 1 or the date on which it is issued, whichever is later, until the next following August 31.

6. If a weighing or measuring device used as commercial weighing and measuring equipment was approved by the Department for use on or after July 1, 2003, but before January 27, 2004, a license shall be deemed to have been issued for the device by the Division pursuant to this section, effective on the date on which the device was approved for commercial use.

Sec. 11. NAC 581.285 is hereby amended to read as follows:

581.285 1. On or before July 10 of each year, the Division will send a notice of renewal for each license then in force that has been issued by the Division for a weighing or measuring device to be used as commercial weighing and measuring equipment. If a license that is suspended as of the date the Division sends the notices of renewal is subsequently reinstated, the Division will, at the time of the reinstatement of the license, provide a notice of renewal to the holder of the license.

2. The notice of renewal must include the amount of the renewal fee which must be paid on or before August 31 of that year. If the renewal fee is paid timely, the Division will:

(a) Renew the license for the weighing or measuring device to be used as commercial weighing and measuring equipment; and

(b) As soon as practicable thereafter, inspect the device to ensure that the device continues to meet all the applicable standards.

3. If, at the inspection conducted pursuant to subsection 2, a weighing and measuring device fails to meet the applicable standards, the Division will immediately suspend the license issued for the device to be used as commercial weighing and measuring equipment. If, during the period for which the renewal was issued, the device:

(a) Passes ~~[an inspection]~~ *a reinspection* conducted by the Division, *or is otherwise approved for use by the State Sealer of Consumer Equitability*, the Division will reinstate the license.

(b) Fails to pass ~~[an inspection]~~ *a reinspection* conducted by the Division, the Division may revoke the license.

Sec. 12. NAC 581.295 is hereby amended to read as follows:

581.295 1. The fee for the annual licensing of a device is:

(a) For scale devices:

500 pounds and under tested with a Class F, Echelon III weight kit	[\$22] \$27
500 pounds and under tested with a Class II, Echelon II weight kit	[\$35] 50
Over 500 pounds through 2,000 pounds.....	[\$60] 75
Over 2,000 pounds through 5,000 pounds.....	[\$160] 200
Over 5,000 pounds through 30,000 pounds.....	[\$280] 350
Over 30,000 pounds.....	[\$300] 375
Hopper, 5,000 pounds and under.....	[\$400] 500
Hopper, over 5,000 pounds	[\$500] 625

(b) For linear devices

	[\$30] 35
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(c) For meter devices:

Dispenser, hose, meter or octane grade tested with a 5-gallon prover	[\$20] 25
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Dispenser tested with a prover larger than 5 gallons.....	150 185
Truck- or rack-mounted meter, rated to a maximum capacity of not more than 120 gallons per minute	150 185
Truck- or rack-mounted meter, rated to a maximum capacity of more than 120 gallons per minute	280 350
Nontemperature-compensated meter used to measure liquid petroleum gas.....	135 185
Temperature-compensated meter used to measure liquid petroleum gas	270 375

2. *Any fee required pursuant to this section is nonrefundable and will not be prorated for any period of the term of the license.*

3. Failure to pay a fee required pursuant to this section by the due date indicated on the bill for the fee, which must not be less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalty that may be imposed pursuant to NAC 581.260, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

Sec. 13. NAC 581.360 is hereby amended to read as follows:

581.360 1. After a serviceperson repairs or adjusts a weighing or measuring device that has been tagged by the State Sealer of Consumer Equitability as being *out of order or* in need of repairs, the serviceperson shall remove the tag if the repair or adjustment made by the serviceperson causes the device to comply with the provisions of the *National Institute of Standards and Technology Handbook 44*, which is adopted by reference pursuant to NAC 581.011.

2. If a serviceperson removes a tag pursuant to subsection 1, he or she shall attach to the weighing or measuring device a security seal that prevents tampering with the calibration components. The seal must include a unique series of numbers or letters that has been approved by the State Sealer of Consumer Equitability for identifying the serviceperson who repaired or adjusted the device.

3. ~~The~~ *Except as otherwise provided in subsection 4, the* owner of a weighing or measuring device that has been repaired or adjusted pursuant to this section may use the device from the time the repair or adjustment is made until the State Sealer of Consumer Equitability conducts the required inspection. The owner may continue to use the device after the inspection is conducted if the State Sealer of Consumer Equitability determines that the device complies with the provisions set forth in the *National Institute of Standards and Technology Handbook 44*.

4. The Division may waive the inspection required by subsection 3 if the owner of the weighing or measuring device that has been repaired or adjusted pursuant to this section submits in a format prescribed by the State Sealer of Consumer Equitability sufficient evidence, as determined by the State Sealer of Consumer Equitability or his or her designee, that the device complies with the provisions set forth in the National Institute of Standards and Technology Handbook 44.

5. If the Division waives the inspection pursuant to subsection 4, the State Sealer of Consumer Equitability will approve the weighing or measuring device and may mark the device pursuant to subsection 13 of NRS 581.067.

Sec. 14. Chapter 582 of NAC is hereby amended by adding thereto a new section to read as follows:

A license as a public weighmaster issued pursuant to NRS 582.040 is valid from January 1 or the date on which it is issued, whichever is later, until the next following December 31.

Sec. 15. NAC 582.025 is hereby amended to read as follows:

582.025 *1.* The fee for:

~~{1.}~~ *(a)* The issuance of a license as a public weighmaster pursuant to NRS 582.040 is \$120.

~~{2.}~~ *(b)* The annual renewal of a license as a public weighmaster issued pursuant to NRS 582.040 is \$100.

2. Failure to pay a fee required pursuant to this section by the due date indicated on the bill, which must not be less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalties that may be imposed pursuant to NAC 582.300, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

Sec. 16. NAC 582.020 is hereby repealed

Sec. 17. *1.* This section and sections 1 to 11, inclusive, and 13 to 16, inclusive, of this regulation become effective on the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.

2. Section 12 of this regulation becomes effective on July 1, 2022.

TEXT OF REPEALED SECTION

582.020 Requirements for bond.

Requirements for a bond of a public weighmaster are as follows:

1. The bond must be a faithful performance bond in the amount of \$1,000 and must be issued by a surety company licensed to do business in this State.
2. The bond form will be supplied by the State Sealer of Weights and Measures, and the executed bond must be filed with his or her office.
3. The State Sealer of Weights and Measures must be notified in writing by the surety 30 days before the cancellation of a bond.

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

**LCB File No. R079-20
December 17, 2020**

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.

Notice and text of the proposed regulations was mailed via the United States Postal Service to 2,303 commercial weighing and measuring device owners. The notice contained the website address for an electronic survey and provided an option to receive and participate in the survey by mail or email. One person requested a hard copy of the survey. The survey was open from October 16, 2020 through October 30, 2020. A total of 68 responses were received, though not all respondents answered all 18 survey questions.

- 40 respondents answered the survey question of how many persons it employs in Nevada. 36 of the respondents employ 100 persons or less. The remaining four respondents employ 101 or more persons. For purposes of the analysis undertaken to prepare this document, the agency considers all 40 of the persons responding to this question as meeting the definition of small business established in NRS 233B.0382.
- 8.96 percent of the survey respondents stated the proposed changes to NAC chapter 581 will have no impact on their business. 41.8 percent indicated the proposed changes would have an insignificant or minor impact on their business. 31.34 percent indicated the proposed changes would have a moderate impact. 17.91 percent indicated a major or severe impact.
- Of the 61 respondents to the survey question asking if the proposed changes to NAC chapter 581 would impact their ability to do business, 16.39 percent said yes, 55.74 percent said no, and 27.87 percent were uncertain.
- 59 respondents answered the survey question of what level of financial impact the proposed changes to NAC chapter 581 would have on their business. 16.98 percent said no impact, 13.56 said insignificant impact, 25.42 percent said minor impact, 27.12 percent said moderate impact, 6.78 percent said major impact, and 10.17 percent said the impact would be severe.
- The survey asked if respondents would need to make operational changes to their business as a result of the financial impact of the changes proposed to NAC chapter 581. 24 persons

responded - some indicated no changes would be necessary, some said they were uncertain, and others indicated they would need to cut other expenses to offset the proposed fee increases.

- Survey respondents were asked to indicate the sections of the proposed changes to NAC chapter 581 that would have the most financial impact on their business. The sections of the proposed regulations cited most often were those which contain fee increases, though other sections of the proposed regulation which should result in lower costs to respondents were also cited.
- Answers to the survey question of how the specific sections of the proposed regulation selected by the respondent would impact their business primarily indicated increased costs of doing business, though other respondents indicated there would be no impact.
- 23.81 percent of respondents stated the proposed changes to NAC chapter 582 will have no impact on their business. 42.86 percent indicated the proposed changes would have an insignificant or minor impact on their business. 21.43 percent indicated the proposed changes would have a moderate impact. 11.9 percent indicated a major or severe impact.
- Of the 38 respondents to the survey question asking if the proposed changes to NAC chapter 582 would impact their ability to do business, 15.79 percent said yes, 63.16 percent said no, and 21.05 percent were uncertain.
- 38 respondents answered the survey question of what level of financial impact the proposed changes to NAC chapter 582 would have on their business. 21.05 percent said no impact, 23.68 said insignificant impact, 26.32 percent said minor impact, 15.79 percent said moderate impact, 5.26 percent said major impact, and 7.89 percent said the impact would be severe.
- The survey asked if respondents would need to make operational changes to their business as a result of the financial impact of the changes proposed to NAC chapter 582. 7 persons responded - some indicated no changes would be necessary, some said they were uncertain, and others did not cite a specific operational change but cited concerns about increase fees.
- Survey respondents were asked to indicate the sections of the proposed changes to NAC chapter 582 that would have the most financial impact on their business. 21 persons responded to the question. 47 percent cited the section which would repeal NAC 582.020, eliminating the requirement for a bond for a public weighmaster. 85.71 percent cited the section which establishes a period of validity for a public weighmaster license and implements a fee for late renewal of a public weighmaster license.

Persons interested in obtaining the survey results may do so by contacting the Division of Consumer Equitability at 775-353-3782 or by email ce@agri.nv.gov. A copy of the survey results is available online at the Department of Agriculture website: <http://agri.nv.gov/CE/>

2. The manner in which the analysis was conducted.

A statistical analysis of the survey results was compiled and considered. While the majority of respondents indicated the proposed changes would have an impact on their business, the majority of respondents indicated that the level of financial impact caused would be insignificant to moderate. 4 respondents indicated that the level of financial impact caused would be major and 6

indicated the impact would be severe; 10 respondents represents 15% of the total survey respondents and .004% of the 2,303 commercial weighing and measuring device owners notified about the proposed regulations.

3. The estimated economic effect of the proposed regulation on small businesses:

The annual economic impact to small businesses is estimated to total \$130,400.

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 agency considered simplifying the proposed regulation, establishing different standards of compliance for small business, and modifying the fees and fines set forth in the proposed regulation so that a small business is authorized to pay a lower fee.

The agency found that simplification of the proposed regulation would not in and of itself relieve the impact of the proposed regulation on small businesses and so that method was not utilized. The proposed regulations in and of themselves are relatively straightforward and the impact of the proposal on small businesses is almost entirely driven by the proposed increase to fee amounts. The agency did not use this method.

In considering establishing different standards of compliance for small business, the agency found that there was an unacceptable level of risk to the patrons of businesses subject to different standards that could result from the business utilizing commercial weighing and measuring devices that are not suitable for their intended use, and/or are not properly installed and accurate, and/or are not so maintained. Because of this finding, the agency did not use this method.

The agency considered modifying the fee(s) and fine(s) set forth in the regulation so that a small business would be authorized to pay a lower amount, but found that in order for the Division of Consumer Equitability to have adequate resources to perform its mandated functions there would need to be an increased amount charged to non-small businesses to account for the reduced fees collected from small businesses. This would result in one set of weighing and measuring device owners subsidizing the cost of service to another set of weighing and measuring device owners. The agency found that such a subsidy would be inappropriate. Additionally, the Division of Consumer Equitability's current system for the registration and invoicing of weighing and measuring devices does not allow for a business to be distinguished by size and cannot be programmed to charge a different price for the annual registration of the same type of weighing and measuring device. 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 revised provisions of NAC 581 will increase. 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.

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 2022, the agency expects it will collect a total of \$2,096,537 in fees for the licensing and testing of commercial weighing and measuring devices. This represents an increase of \$326,00 from the amount collected in State Fiscal Year 2020. The additional revenues will be used to pay for ongoing program operating expenses, to replace vehicles and equipment which have reached the end of their useful life, and to implement a new software system that will allow the Division of Consumer Equitability to operate more efficiently, effectively and in accordance with modern business practices.

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. 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 the 8-month period, entirely satisfy the PSP testing requirement for those scales used on a limited seasonal basis.

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 in order for the Division of Consumer Equitability to perform all of its statutorily mandated duties. Based upon the survey

responses received, the agency believes the number of small businesses that will experience a major or severe financial impact as result of the proposed regulations is less than 10 percent (~ 92 businesses).

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 was prepared properly and is accurate.

Jennifer Ott
Director
Nevada Department of Agriculture

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This survey was opened on 10/16/2020 and closed on 11/2/2020. The survey was posted to the NDA on 10/20/2020 to the following links: <http://agri.nv.gov/survey/>. The survey was additionally sent by mail to licensed businesses within the State of Nevada. In total 68 entities responded to this survey.

**Q1. What level of impact will the proposed changes to NAC 581 have on your business?
(N=67, 1 respondent skipped the question)**

- No Impact: 6 respondents (8.96%)
- Insignificant Impact: 14 respondent (20.90%)
- Minor Impact: 14 respondents (20.90%)
- Moderate Impact: 21 respondents (31.34%)
- Major Impact: 5 respondent (7.46%)
- Severe Impact: 7 respondent (10.45%)

**Q2. If enacted would the proposed changes to NAC 581 impact your ability to do business?
(N=61, 7 respondents skipped this question)**

- Yes: 10 (16.39%)
- No: 34 (55.74%)
- Uncertain: 17 (27.87%)

**Q3. Based upon your response: How would changes to NAC 581 impact your ability to do business?
(N=22, 46 respondents skipped this question)**

- Have no idea
- Not sure how it would impact the business
- Minimal impact to our business, therefore no issues.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- The price increase is not going to price us out of the market. But it would impact us in an increasingly difficult market.
- increased cost
- It would not.
- Business as usual
- As a business owner when business is bad we cut costs. Every tax, fee, or bill imposed on use is more and more of a strangle hold to where we are almost choked to death by the establishment that we pay. When times get tough cut costs don't kill We The People.

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- as fees are raised we will need increase our fees to customers to compensate. This will mean possible loss of customers or company loss due to customers refusing to pay the new fees due to the increase.
- Increased costs that would need to be paid
- leave the fees the same or no longer provide this service.
- It would not impact our business significantly
- Our pocketbook!
- It wouldn't. Our use of scales is not subject to inspection by the NDA.
- Nothing
- Only if the fees are substantially higher than current, or if inspections are increased.
- drop it
- Higher inspection charges
- Unsure
- Each session the fee's on our business increase, our prices continue to go down but state and federal fees continue to rise.
- I'm not sure

Q4. What level of financial impact would the proposed changes to NAC 581 have on your business?

(N=59, 9 respondents skipped this question)

- No Impact: 10 respondents (16.95%)
- Insignificant Impact: 8 respondents (13.56%)
- Minor Impact: 15 respondents (25.42%)
- Moderate Impact: 16 respondent (27.12%)
- Major Impact: 4 respondents (6.78%)
- Severe Impact: 6 respondents (10.17%)

Q5. Based upon your response: Would you need to make any operational changes to your business as a result of financial impact of NAC 581? If so, what would those changes be?

(N=24, 44 respondents skipped this question)

- No
- Don't know
- not at this time
- The brand inspection fees have been multiplied as have the scale inspection fees. Taxes are being increased when the agricultural sector income is badly depressed. The effect is culminative. There should be an exemption for agriculture.
- No changes as minimal impact to business.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.

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- none
- We would have to add operating costs to the Consumer which burden might negatively impact our business.
- Our budget would grow tighter.
- No
- YES
- it really is untold how this will impact our business as we have not been told how much the increase will be.
- The costs increases would have an impact, but if the service from the Department meets the needs in a timely fashion -- it's a necessary costs-of-doing business
- Hire a private company to perform the service.
- No
- Yes several changes
- No. Our scales are not required to be inspected.
- Get smaller scales
- No
- drop it
- No
- No
- I would have to cut other expenses (possible people)
- I'm not sure

Q6. Please select the Sections of NAC 581 that contain proposed amendments that would have the most financial impact on your business:
(N=36, 32 respondents skipped this question)

- Section 1: NAC 590.009
 - 8 respondents (22.22%)
- Section 2: NAC 581.011
 - 10 respondents (27.78%)
- Section 3: NAC 581.030
 - 9 respondents (25.00%)
- Section 4: NAC 581.050
 - 11 respondents (30.56%)
- Section 5: NAC 581.210
 - 21 respondents (58.33%)
- Section 6: NAC 581.220
 - 11 respondents (30.56%)
- Section 7: NAC 581.280
 - 11 respondents (30.56%)

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- Section 8: NAC 581.2XX (Note: Added section can be located on page 12)
 - 8 respondents (22.22%)
- Section 9: NAC 581.2XX (Note: Added section can be located on page 12-13)
 - 6 respondents (16.67%)
- Section 10: NAC 581.360
 - 5 respondents (13.89%)
- Section 11: NAC 581.295
 - 11 respondents (30.56%)
- Section 12: NAC 582.020 (Note: Repealed section page 16)
 - 14 respondents (38.89%)
- Section 13: NAC 582.025
 - 8 respondents (22.22%)

**Q7. Based upon your response: How would the selected section (s) impact your business?
(N=23, 45 respondents skipped this question)**

- Mainly Increased fees and period of validity since date of issue is often dependent on when an inspection is available for rural Nevada. Late payment and prorating would impact if applicable.
- none
- It adds to cumulative tax increases that have significant impact during a time of depressed cattle prices and other economic stress. These taxes were increased significantly previously.
- Since registration fees increased.
- Considering that this proposed legislation has not been received in the past, there is no way to accurately respond to this survey
- None
- More cumbersome than before and creates additional work.
- We only need the inspection of our weighing devices. The price is still the same.
- Could effect business if any proposed late fees are given and possible delays by the Division through lost paperwork, miscalculations, backlog of businesses applications, etc.
- Increases expenses in a business were there is seldom any profits
- Every year the price goes up to test the scales and they are not here for long. The price started at \$100 and now going up to \$350. That is a little too much.
- Very Little
- Any type of increase impacts business. We would have to make adjustments to pricing in order to adjust.
- rate that we charge customers will need to be adjusted to reflect new fees for scales
- Increased costs, but again -- if the Department meets the necessary timeframe to perform service, that is extremely important

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- Minimal increases that haven't been adjusted in 20 years.
- Substantial fee increases during these times is not conducive to promoting successful business in NV.
- Not significantly
- They wouldn't. Our scales are not subject to inspection.
- Spending more money
- kill it
- Not much impact
- I'm not sure

Q8. Please feel free to provide any feedback you would like us to consider in relation to the proposed changes to NAC 581.

(N=12, 56 respondents skipped this question)

- For my business there are almost no affects other than the small fee increases for the annual inspection and the changes to the retest fees if we ever needed a reinspection.
- Minimal impact to business therefore no issues.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- Please see #7
- Don't increase fees, decrease fees.
- I answered that it was undetermined how this would affect us in one of the questions due to not knowing what it would cost, I hadn't finished reading all the material in regards to rate changes. I feel that a slow rate increase if more beneficial to business and their customers at this time. as most of business are still not sure how the economic fall this past year is going to affect all aspects of their business.
- The increases are needed. Wish there were more monies available to Weights & Measures to do annual inspections of metered fuel dispensers.
- Cost reduction for providing this service seems to have been lost in the process. Possibly lobby for a length or period of time increase in testing requirements even though they are already mandated.
- N/A
- nickledime.com
- No inspection fee
- this is absolutely ridiculous , unfair & unconstitutional

Q9. What level of impact will the proposed changes to NAC 582 have on your business?
(N=42, 26 respondents skipped this question)

- No Impact: 10 respondents (23.81%)
- Insignificant Impact: 10 respondents (23.81%)
- Minor Impact: 8 respondents (19.05%)
- Moderate Impact: 9 respondent (21.43%)
- Major Impact: 2 respondents (4.76%)
- Severe Impact: 3 respondents (7.14%)

Q10. If enacted would changes made to NAC 582 impact your ability to do business?
(N=38, 30 respondents skipped this question)

- Yes: 6 (15.79%)
- No: 24 (63.16%)
- Uncertain: 8 (21.05%)

Q11. Based upon your response: How could changes to NAC 582 impact your ability to do business?

(N=8, 60 respondents skipped this question)

- uncertain
- no impact
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- Higher fees added to already burdensome fees from every aspect of Nevada State government.
- None
- Same as the other comments I have made
- Spending money
- kill it

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Q12. What level of financial impact would the proposed changes to NAC 582 have on your business?

(N=38, 30 respondents skipped this question)

- No Impact: 8 respondents (21.05%)
- Insignificant Impact: 9 respondents (23.68%)
- Minor Impact: 10 respondents (26.32%)
- Moderate Impact: 6 respondents (15.79%)
- Major Impact: 2 respondents (5.26%)
- Severe Impact: 3 respondents (7.89%)

Q13. Based upon your response: Would you need to make any operational changes to your business as a result of the financial impact of NAC 582?

(N=7, 61 respondents skipped this question)

- uncertain
- No impact, fees are low anyway.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- Again additional fees when we are trying to recover from loss of business due to the Covid 19 Pandemic.
- No
- Change scales
- kill it

Q14. Please select the Sections of NAC 582 that contain proposed amendments that would have the most financial impact on your business:

(N=21, 47 respondents skipped this question)

- Section 13: NAC 582.020
 - 10 respondents (47.62%)
- Section 14: NAC 582.025
 - 18 respondents (85.71%)

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Q15. Based upon your Response: How would the selected section(s) impact your business?
(N=12, 56 respondents skipped this question)

- uncertain
- Minor bump in fees.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- None
- More cumbersome regulations and expenses.
- Payment made prior to deadline may incur a late fee from Division should payment process get delayed (no control of processing system by Business owner).
- Government overreach, fees, taxes and mandatory bills kill business.
- These fees need to be reduced.
- Neither will impact my business
- So busy that sometimes I forget to renew
- both Dont mess with something that isn't broke. take your stupid ideas back where ever they came from!
- Insignificant

Q16. Please feel free to provide any feedback you would like us to consider in relation to the proposed changes to NAC 582.

(N=7, 61 respondents skipped this question)

- uncertain
- No significant impact.
- I do not recall receiving such material in the past five years, there is no way to accurately complete this survey.
- None
- Government overreach, fees, taxes and mandatory bills kill business.
- We are in a time that fees should be adjusted along with market fluctuations so all can carry the burden of such.
- This is nothing but greed from people that no nothing about the Great West & its history.. Leave us alone!!

Q17. What Nevada county(ies) is your business located in?

(N=40, 28 respondents skipped this question)

- Carson City: 1 respondent (2.50%)
- Churchill County: 2 respondents (5.00%)
- Clark County: 17 respondents (42.50%)
- Douglas County: 1 respondent (2.50%)

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- Elko County: 9 respondents (22.50%)
- Esmeralda County: 0 respondents (0.00%)
- Eureka County: 0 respondents (0.00%)
- Humboldt County: 2 respondents (5.00%)
- Lander County: 1 respondent (2.50%)
- Lincoln County: 1 respondent (2.50%)
- Lyon County: 2 respondents (5.00%)
- Mineral County: 0 respondents (0.00%)
- Storey County: 1 respondent (2.50%)
- Washoe County: 8 respondents (20.00%)
- White Pine County: 4 respondents (10.00%)

Q18. How many people does your business employ in Nevada?
(N=40, 28 respondents skipped this question)

- 1-15: 19 respondents (47.50%)
- 16-30: 9 respondents (22.50%)
- 31-45: 1 respondent (2.50%)
- 46-60: 1 respondent (2.50%)
- 61-75: 2 respondents (5.00%)
- 76-100: 4 respondents (10.00%)
- 101+: 4 respondents (10.00%)