

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
DIVISION OF MEASUREMENT STANDARDS (DMS)
REGISTERED SERVICE AGENCY (RSA) ADVISORY COMMITTEE
ZOOM CONFERENCE MEETING**

**March 2, 2023
9:00 a.m. – 12:00 p.m.**

MEETING MINUTES

**Minutes are considered DRAFT until approved
by the RSA Advisory Committee**

A. CALL TO ORDER

Steven Cook, Committee Chair, called the meeting to order at 9:23 a.m. The meeting was held both in-person and remotely using Zoom. The meeting started late due to troubles with ZOOM.

B. ROLL CALL OF MEMBERS

Steven Cook took roll call. Membership attendance is reported below. Steven Cook established that there was a quorum of committee members.

Committee Members Present (In-person):

Steven Cook, RSA Advisory Committee Chairperson
Lucian Stacy, Left Coast Scales, LLC

Committee Members Present (Zoom):

Lynn Carmichael, Traboh Inc., DBA Hobart Sales and Service
Chris Gate, Clean Energy Fuels
Breanne Matsuura, Sacramento County Department of Agriculture/Weights and Measures
Joseph Lundeen, San Bernardino County Department of Agriculture/Weights and Measures

Committee Members Absent:

None
One position vacant (RSA Customer)

CDFA-DMS:

Kristin Macey, CDFA-DMS Director
Clark Cooney, CDFA-DMS Branch Chief of Enforcement
Anil Samujh, CDFA-DMS Special Investigator

Other Participants:

None

Presenters:

None

C. APPROVAL OF PRIOR MEETING MINUTES

Steven Cook asked committee members if there were comments or edits to the draft minutes of the August 2, 2022 meeting. Steve suggested edits to correct two errors on page 7. Lucian Stacy made the motion to approve the edited meeting minutes, seconded Chris Gate.

Committee members voted unanimously to approve the August 2, 2022 meeting Minutes, as edited.

Name	Vote	Comment
Chris Gate	Yea	Second
Lynn Carmichael	Yea	
Steven Cook	Yea	
Joseph Lundeen	Yea	
Breanne Matsuura	Yea	
Lucian Stacy	Yea	Motion

D. REPORTS AND INFORMATION (Informational)

None

E. OLD BUSINESS (Discussion/Action by Committee)

1. Proposal to reinstate [NIST Handbook 44 \(HB 44\), Section 1.10., G-S.1.2.](#) (Remanufactured Devices.) in California regulation by removing the exception in [California Code of Regulations \(CCR\) Title 4, Section 4001.](#)

CCR:

4 CCR § 4001. |Exceptions.

1.10. General Code.

G-S.1.2. Remanufactured Devices and Remanufactured Main Elements.

HB 44. 1.10. General Code.

G-S.1.2. Devices and Main Elements Remanufactured as of January 1, 2002. – All devices and main elements remanufactured as of January 1, 2002, shall be clearly and permanently marked for the purposes of identification with the following information:

- (a) the name, initials, or trademark of the last remanufacturer or distributor; and
 - (b) the remanufacturer's or distributor's model designation, if different than the original model designation.
- (Added 2001) (Amended 2011)

Note: Definitions for "manufactured device," "repaired device," and "repaired element" are included (along with definitions for "remanufactured device" and "remanufactured element") in Appendix D, Definitions.

HB 44 Appendix D. Definitions:

remanufactured device. – A device that is disassembled, checked for wear, parts replaced or fixed, reassembled and made to operate like a new device of the same type. [1.10]
(Added 2001)

remanufactured element. – An element that is disassembled, checked for wear, parts replaced or fixed, reassembled and made to operate like a new element of the same type. [1.10]
(Added 2001)

repaired device. – A device to which work is performed that brings the device back into proper operating condition. [1.10]
(Added 2001)

repaired element. – An element to which work is performed that brings the element back into proper operating condition. [1.10]
(Added 2001)

Discussion: Steve Cook stated that Lucian Stacy had suggested in a previous meeting that this HB 44 paragraph be reinstated in the CCR. CDFA's Division of Measurement Standards (DMS) does not adopt the Remanufactured Devices and Remanufactured Main Elements section from HB 44, nor the associated definitions. Breanne Matsuura asked why DMS did not adopt this portion of HB 44.

As per the Initial Statement of Reasons (ISOR) from the 2003 Rulemaking file: "Section G-S.1.1. Remanufactured Devices and Remanufactured Main Elements was added to HB 44 in 2001 along with definitions for "remanufactured device", "remanufactured element", "repaired device", and "repaired element". (Note: G-S.1.1. has since then been renumbered to G-S.1.2.) According to the ISOR, "California already has a definition of "Repair" in California Business and

Professions Code (BPC) Section 12531, "Service Agency". Subsection (b) defines a Service Agent as any person employed to repair a commercial device and subsection (f) defines "Repair". HB 44, Section G-S.1.1. and the definitions in Appendix D for "remanufactured device", "remanufactured element", "repaired device", and "repaired element" conflict with this section."

"The effect of the HB 44 requirements is to create new definitions and to set identification and marking requirements for "repaired" commercial weighing and measuring devices which are similar to, but inconsistent with California law and regulations already adopted pursuant to BPC Section 12531."

"Title 4, Division 9, Chapter 4, Section 4085, "Responsibility of a Service Agency" already requires marking and reporting requirements from "service agents" who "repair" or "remanufacture" commercial weighing and measuring instruments which adequately fulfills the intent of HB 44 Section G-S.1.1. The section and its related definitions are therefore unnecessary."

Lucian asked if current CCR was more or less strict than HB 44. Steve said he would have to research that. Lucian then asked if the Department of Food and Agriculture (CDFA) had any thoughts on this proposal. Kristin Macey stated that unless something in HB 44 has changed, CDFA's position would still stand. Lucian then stated it was his preference to leave the exception in place.

Committee members voted unanimously to retain the exception of CCR Section 4001, General Code 1.10. G-S.1.1. Remanufactured Devices and Remanufactured Main Elements.

Name	Vote	Comment
Chris Gate	Yea	
Lynn Carmichael	Yea	Second
Steven Cook	Yea	
Joseph Lundeen	Yea	
Breanne Matsuura	Yea	
Lucian Stacy	Yea	Motion

2. Proposal to repeal CCR Section 4002.2. Scales (2.20) (c) Livestock Scales Not Equipped With Balance Indicator. This is currently an additional requirement to NIST Handbook 44, Section 2.20., T.2.7.

CCR

4 CCR § 4002.2. Additions.

2.20. Scales Code.

(c) Livestock Scales Not Equipped With Balance Indicator. The Sensitivity Requirement for livestock scales not equipped with a balance indicator shall be 10 pounds, notwithstanding the requirements of Handbook 44, Section 2.20. Scales, T.2.7.2.

2.20. Scales Code.

T.2.7. Vehicle, Axle-Load, Livestock, and Animal Scales.

T.2.7.2. Not Equipped With Balance Indicators. – 2 d or 0.2 % of the scale capacity, whichever is less.

Discussion: Lucian Stacy said California should err on the side of lower tolerances and realign with HB 44; that the HB 44 requirements are tighter and more specific than the CCR. Lynn Carmichael gave an example: If a cow weighs 800 lb, 10 lb is less accurate than 0.02%, so it might not make sense to go back to HB 44 language. Lucian said that if a division size is 2 lb, the sensitivity requirement (SR) of 2 d would be 4 lb, which is less than the 10 lb allowed by the CCR. Lucian also noted that the CCR states that the SR *shall be* 10 lb and doesn't allow an "either/or" like HB 44 does. HB 44 allows for less scale error. Steve Cook noted that depending on the scale division size, e.g., 2 lb or 10 lb, the error could be more or less than 10 lb. Steve said he recalled discussions on this subject in the 1980s. Lynn remembered there being discussions about how livestock scales were very old, but still worked. Lucian countered, saying that scales need to meet the design specifications, and we should disregard the excuse that the scale is old and can't meet the SR in HB 44. If it can't meet the SR, it needs to be repaired or replaced. Kristin Macey asked committee members to be mindful that changes to the CCR may impact an industry and/or device owners. Also, the Theory of Tolerances in HB 44 Appendix A discusses the balance of costs and benefits of device accuracy. Lucian said that errors can go in either direction, and that although it will cost industry to ensure their equipment is properly maintained, it also benefits the public. Lynn asked how many old lever system livestock scales are still in use today. Lucian said he sees many of these scales in the Imperial Valley. Joseph Lundeen agreed that Imperial County has quite a few and that Kern County has a lot, but that San Bernardino County has approximately 5 – 6 and they are all electronic. Lynn said he thinks the current CCR requirements allows an electronic scale to be less accurate than it can be.

Joseph suggested the committee review the United States Department of Agriculture (USDA), Grain Inspection, Packers and Stockyards Administration (GIPSA) requirements since many livestock scales are also regulated by USDA GIPSA. The committee reviewed the SR in the 1996 USDA document "Instructions for Testing Livestock and Animal Scales Subject to the Packers and Stockyards Act" <https://www.ams.usda.gov/sites/default/files/media/PSDInstructionsforTestingLivestockandAnimalScales.pdf> and noted that the USDA GIPSA SR requirements are the same as HB 44. Also noted was the fact that the CCR changes were made in 1994. CDFA DMS does not have rulemaking documents associated with this CCR change on file and available for review.

Lucian stated that it makes more sense to be closer to HB 44 and that puts us in alignment with GIPSA. Lynn stated that since we do not have any idea why California did what they did, he does not understand why we would not want to follow HB 44.

Committee members voted unanimously to repeal the addition in CCR Section 4002.2. Scales (2.20) (c) Livestock Scales Not Equipped With Balance Indicator.

Name	Vote	Comment
Chris Gate	Yea	
Lynn Carmichael	Yea	
Steven Cook	Yea	
Joseph Lundeen	Yea	Second
Breanne Matsuura	Yea	
Lucian Stacy	Yea	Motion

C. NEW BUSINESS

1. Elect New Committee Chair (Steve Cook). Steve Cook announced he is stepping down as committee chair. The new chair will begin the chair duties at the next meeting.

Committee members voted unanimously to elect Lucian Stacy as new chairman of the RSA Advisory Committee.

Name	Vote	Comment
Chris Gate	Yea	
Lynn Carmichael	Yea	Motion
Steven Cook	Yea	
Joseph Lundeen	Yea	Second
Breanne Matsuura	Yea	
Lucian Stacy	Yea	

2. RSA Agent Exam (Joseph Lundeen).

Discussion: Joseph Lundeen said the purpose for this item was to discuss the limitations of the agent exam. Lucian Stacy spoke with Don Onwiler in February 2023 regarding the National Conference on Weights and Measures (NCWM) professional certification examinations. NCWM has tests for different device types, and some states are allowing this instead of their own exams. NCWM is also developing an additional, separate section for state-specific requirements. Joseph said we should have a higher standard for RSAs and he would like the DMS exam to have separate subsections, for weighing and for measuring devices. Lucian agreed; there are agents who don't know what they're doing and keep making the same mistake over and over again. Lucian gave an example: He helped instruct a HB 44 class with Rice Lake Weighing Systems. There were ten service agent students in the class and the least experienced agent had been employed seven years. After the instruction, students took an open book exam; five out of ten failed the exam. Steve said he heard that the International Society of Weighing and Measurement (ISWM) is starting to do training; Lucian said he has just joined the ISWM Training Committee.

Kristin Macey was asked to give the DMS perspective. Kristin stated that the Business and Professions Code, Division 5, Chapter 5.5. Service Agencies for Weighing and Measuring Devices went into effect in 2000 after legislation was passed in 1999. The law was designed for joint industry oversight by DMS and the counties. For this reason, 60 % of all revenue collected by the RSA Program goes back to the counties for local enforcement. However,

county enforcement is not consistent. Some jurisdictions are very good at checking licenses, looking at placed in service reports, following up and reinspecting after repairs; however, many are not. The fees that are paid today were set in 2000 and are outdated. The current fees are not sufficient to create a more robust exam to test for technical competency. The intent of the legislation was to test for knowledge of the legal requirements only [e.g., when to submit the Placed In Service Report (PISR), etc.]. The legislative intent of 60 % of all revenue being distributed to counties was to ensure industry oversight at the local level – county inspectors would be following up. If all aspects of the Program were working as intended, service agencies would provide adequate technical training and have competent employees (agents), county inspectors would reinspect a repaired device in a timely manner after receiving a PISR and catch errors caused by incompetent service agents. If the program was functioning properly, DMS and/or county sealers would be taking enforcement action, and DMS would occasionally revoke agent licenses or agency registrations. However, the system isn't working as intended, as evidenced by the lack of county complaints regarding agencies and agents, and license revocation has never happened since the inception of the program. Substituting the NCWM exam for the California exam does not provide DMS with any program revenue. Also, the NCWM exam's technical questions are not appropriate for all RSAs. The NCWM Basic Competency exams (one for weighing and one for measuring) are each two-part: the first has a general component covering Handbook 44, and the second has a specific part covering the basic elements of the type of measurement. For weighing, the specific questions are about the Scales Code. The specific questions regarding measuring devices are from the Liquid Measuring Devices Code and the Vehicle-Tank Meters Code. There are many other commercial device types in California than what is covered in the NCWM exams, and this would force some agents to study and learn about information they will never apply in their job. Lucian stated the NCWM exams would allow him to select the states he works in and take one test instead of multiple tests (plus the state-specific questions).

Lucian asked how RSA program fees could be changed. Service agency registration fees are set in statute and must be changed via legislation. Service agent exam fees are set in regulation and may be amended via rulemaking. Lucian said he would be supportive of raising fees to improve the Program. Raising the fees would ensure agents take their license exams seriously and that companies are serious about their employees knowing the information. However, if CDFA raises agent exam fees to \$100 and an RSA has a lot of agents, that's going to cost a lot. He would like it harder to become licensed and for the license to mean something. Lucian provided an example of how the current licensing system isn't effective: A county representative said that another RSA asked for a variance because the company could not calibrate a series of scales (multiple devices) to be within tolerance. Lucian said the State needs to do something because the Program, and Division, is "dying on the vine."

Joseph said that everyone (State, counties, RSAs) need to do their part. Breanne Matsuura noted that DMS needs to do more for the counties and RSAs. There will be more RSAs soon with the rise of zero-emission fuels (hydrogen and electricity), and these businesses are unfamiliar with our laws. Kristin pointed out that the RSA Portal is an example of where DMS is trying to give counties the tools they need to do their part. It allows counties to check on RSA registration and agent licensing.

Chris Gate said that the agent exam needs to test a person's knowledge of the regulations but that we need to be careful about what we expect from the technical part of an exam, since it's so broad. His CNG/LNG technicians are trained by natural gas manufacturers, and some of the manufacturers ask for technicians to learn about other liquid measuring devices in order to pass the exam when they'll never work on those devices. He agreed with Joseph that we should be doing more, but to be careful with our expectations, giving agents the resources available for people to get the training, and that we're not going to ask them to pass an exam for equipment they will never work on. Lucian said that in Arizona, if he wants to work on light and heavy capacity scales, he has to take an exam on those scales. If he wanted to work on gas pumps, he would have to take a test on those devices. He agrees with Chris that there is a huge difference between CNG/LNG meters and gas pumps. He said that the current California license would allow him to work on gas pumps even though he knows nothing about these devices. The Arizona license limits the scope of work. In Illinois, there are multiple exams to obtain to work on scales: small capacity, medium capacity, and large capacity. He would like to see California revise its testing to be more like those states. Lucian said he would like the Committee to look at the current California exam and see what changes might be made. Consider having a basic competency exam, look at the NCWM model with exams for specific device types, or categories of device types, etc. Joseph added that there are other models: Department of Motor Vehicles license exams and endorsements and the Department of Pesticide Regulation. Lucian added that competency testing can be doing a demonstration of performing the test (this is what he had to do in Arizona). Right now, all that's required in California is to provide proof of certified standards. Lucian proposed that the Committee do a thorough review of California's current examination procedures and content, and determine what it would take to shift to a more focused exam for different device types.

Committee members voted unanimously to begin a review of the current RSA agent examination and alternatives.

Name	Vote	Comment
Chris Gate	Yea	
Lynn Carmichael	Yea	
Steven Cook	Yea	
Joseph Lundeen	Yea	Second
Breanne Matsuura	Yea	
Lucian Stacy	Yea	Motion

3. Future Rulemaking Activity Affecting RSAs (Kristin Macey)

Discussion: Kristin Macey explained that each time the Committee's votes to make a change to the CCR, CDFA does not promulgate regulations. Instead, CDFA will wait to bundle all the changes into one rulemaking. This is because so many resources are required to go through the rulemaking process, so she encouraged the Committee to continue its review of all the

differences between HB 44 and the CCR. In addition, as was mentioned during the discussion on Item #2, the current level of funding for the RSA Program is no longer sufficient to support program activities. CDFA will not initiate legislation to impose additional fees upon its regulated industries, so the only fees that can be modified are the agent exam fees, which may be adjusted via rulemaking. The RSA Portal is a Software as a Service (SaaS), and as such, it comes with ongoing license fees. Starting in 2024, DMS will have to begin paying for license fees. CDFA-DMS will have to initiate rulemaking in 2023. The proposed regulation will only address fees, and not include content of the service agent exams. Breanne Matsuura suggested that counties use a generic email account instead of the email account of an individual person. Lucian Stacy concurred, saying the licensing costs add up quickly and if a designated person leaves, it can be difficult to switch the license to someone else.

4. Additional Agenda Items

- A. Add future agenda items (Steve Cook). Lucian Stacy asked that each item show the CCR language side-by-side with HB 44 language so committee members may easily compare wording.
1. Reinstate NIST Handbook 44, Section 2.20. Scales, UR.2.6.1. (Vehicle Scales. (c)) in California regulation by removing the exception in CCR Section 4001. 2.20. Scales, UR.2.6.1.
 2. Reinstate NIST Handbook 44, Section 2.20. Scales, UR.3.7. in California regulation by removing the exception in CCR Section 4001. 2.20. Scales, UR.3.7. (Minimum Load on a Vehicle Scale.) and whether the additional requirements in CCR Section 4002.2. Scales (2.20) (a-b) be repealed.
 3. Reinstate NIST Handbook 44, Section 1.10., G-T.1. (Acceptance Tolerances.) in California regulation by removing the exceptions in CCR Section 4001. G-T.1. (b-d), and whether the additional requirement in CCR Section 4002.1. General Code (1.10.) (a) Type Approval Use. be repealed.
 4. Reinstate NIST Handbook 44, Section 2.20., S.1.8.4. (Customer's Indications.) in California regulation by removing the exception in CCR Section 4001. 2.20. Scales, S.1.8.4., and whether the additional requirement in CCR Section 4002.2. Scales (2.20) (d) be repealed.
 5. Reinstate NIST Handbook 44 3.30 Liquid-Measuring Devices paragraph N.4.1.1. Wholesale Devices and repeal § 4002.8 (a) Wholesale Device Equipped With Automatic Temperature Compensating Systems.
 6. Repeal § 4002.3. UR.2.2. Ticket Printer; Customer Ticket. The CCR versions is identical to HB 44 to the CCR which has identical language expect for the effective dates. The CCR has a Nonretroactive Date as of January 1, 1995. HB 44 language was Nonretroactive 1993, Amended
 7. Reinstate NIST Handbook 44. 3.32. (LPG) to restore NIST Handbook 44 paragraph S.2.8. Automatic Temperature Compensation.

- i. Restore NIST Handbook 44 3.32. (LPG) paragraph S.2.8. Automatic Temperature Compensation.
 - ii. Reinstate NIST Handbook 44. 3.32. (LPG) to restore NIST Handbook 44 paragraphs S.3.1. Diversion of Measures Liquids, and S.3.2. Design of Discharge Lines and Discharge Line Valves.
 - iii. Reinstate NIST Handbook 44. 3.32. (LPG) to restore NIST Handbook 44 paragraphs pertaining Automatic Temperature Compensation (ATC) Specifications, including deactivation of ATC and vapor return lines.
 - iv. Retain CCR §4002.3 (e) Signs
- 8. Reinstate NIST Handbook 44 Section 33 Hydrocarbon Gas Vapor-Measuring Devices paragraph S.4.3. Temperature Compensation.
 - i. Repeal Leak Test
 - ii. Repeal Temperature Compensation
 - iii. Retention of Customer Invoices
- 9. Repeal CCR § 4002.10. Mass Flow Meters

D. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Steven Cook opened this item for discussion. No comments were made.

E. NEXT MEETING AGENDA - Before July 1, 2023.

F. ADJOURNMENT - Steven Cook adjourned this meeting at 11:35 p.m.

Respectfully submitted:

Committee Chair, Steven Cook
Retired - DMS
CDFA-DMS RSA Advisory Committee Chairman