

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
DIVISION OF MEASUREMENT STANDARDS (DMS)
REGISTERED SERVICE AGENCY (RSA) ADVISORY COMMITTEE
ZOOM CONFERENCE MEETING
JANUARY 13, 2022
10:00 a.m. – 11:29 a.m.**

MEETING MINUTES

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

A. CALL TO ORDER

The Committee Chairperson, Steven Cook, called the meeting to order at 10:00 a.m. The meeting was held virtually using Zoom. The meeting was recorded so that accurate minutes could be written.

B. ROLL CALL OF MEMBERS

Roll call was taken by Steven Cook.

Committee Members Present:

Sam Bayless, California Fuels and Convenience Alliance
Michelle Buran, Acme Scale Company
Lynn Carmichael, Traboh Inc., DBA Hobart Sales and Service
Steven Cook, RSA Advisory Committee Chairperson (representing general public)
Tom Pisani, Butte County Department of Agriculture/Weights and Measures
Lucian Stacy, Left Coast Scales, LLC
Branden Woolley, Napa County Department of Weights and Measures

CDFA-DMS:

Kristin Macey, CDFA-DMS Division Director
Clark Cooney, CDFA-DMS Enforcement Branch Chief
Samuel Ferris, CDFA-DMS Liaison to the RSA Advisory Committee

Presenters:

Samuel Ferris and Clark Cooney.

Other Participants:

No one requested to provide comment(s).

C. APPROVAL OF PRIOR MEETING MINUTES

Steven Cook asked committee members for comments or suggestions on the draft

meeting minutes of the November 9, 2021 meeting. Branden Woolley requested that the misspelling of his last name be corrected. Steven Cook called for a motion to make the edit and approve the amended meeting minutes. Sam Bayless made a motion, seconded by Lucian Stacy, to approve the meeting minutes. Committee members voted unanimously to approve them as amended.

Name	Vote	Comment
Sam Bayless	Yea	Motion
Michelle Buran	Yea	
Lynn Carmichael	Yea	
Steven Cook	Yea	
Tom Pisani	Yea	
Lucian Stacy	Yea	Second
Branden Woolley	Yea	

D. REPORTS AND INFORMATION (Informational)

a. Presentation – County and RSA Surveys of National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices (NIST HB 44), Scales Code, paragraph N.3. Minimum Test Weights and Test Loads (including its subparagraphs and Table 4) and Future Rulemaking Activity. [Future reference to paragraph N.3. includes its subparagraphs and Table 4].

Samuel Ferris provided an overview of the history of CDFA’s research and implementation of the requirements for using minimum quantities of certified test weights and test loads to test commercial scales. In the 1980s, California RSAs and weights and measures officials were unable to procure or have access to the mandatory minimum test weights established in NIST HB 44, Section 2.20. Scales Code, Table 4.

CDFA-DMS engaged in rulemaking in 2011 to harmonize with NIST HB 44. In that rulemaking CDFA-DMS removed the California-specific table of minimum test weights; however, it did not concurrently readopt NIST HB 44, paragraph N.3. or Table 4. Therefore, California was without any table of required minimum test weights and test loads. The lack of a table containing minimum test weights impacts tests of high-capacity scales the most. It also creates a situation where county officials cannot take enforcement action on businesses that do not use minimum quantities of test weights to test high-capacity scales. Samuel Ferris announced that CDFA-DMS will send surveys to RSAs and county offices to assess their ability to comply with the current requirements published in NIST HB 44, N.3. The survey results will help determine the need for future rulemaking.

b. Presentation – Cannabis Scale Testing – New Requirements. Clark Cooney introduced the recent changes to Title 4 of the California Code of Regulations (CCR)

Section 17221(e). RSAs are now allowed to perform inspections of cannabis scales and must provide a copy of the inspection report to the cannabis businesses [a licensee of the newly formed Department of Cannabis Control]. Lucian Stacy asked why the word “may” was used in CCR Section 17221(e), as if testing scales were optional for cannabis businesses. Branden Woolley asked for clarification why San Diego County was not required to register cannabis scales. Clark Cooney responded that registration fees include examination costs, making the collection of registration fees inappropriate if San Diego County is not conducting compliance examinations. Lucian Stacy commented that the word “licensee” implied that cannabis businesses are required to register their cannabis scales, contradicting San Diego County’s decision not to register cannabis scales. Clark Cooney relayed Kristin Macey’s comment posted in the Zoom chat box that CCR Section 17221(e) is an emergency regulation that will have to undergo the regular rulemaking process, thus will be open to public comment in the future.

c. Informational – New CDFA-DMS Web Link for Submitting Future Agenda Items. Samuel Ferris announced that CDFA-DMS will upgrade its website to include a link for interested stakeholders to submit suggestions to the Committee for future agenda items. This will be a way for stakeholders to submit suggestions to the Committee between RSA Advisory Committee meetings. Such suggestions may become agenda items at the discretion of the Committee Chairperson. [The updated webpage link will be included in the next meeting notice and agenda for consideration by the Committee.]

E. NEW BUSINESS (Discussion/Action by Committee)

a. Rules of Conduct of Committee Members. Steven Cook addressed the Bagley-Keene Act and Robert’s Rules of Order for comments, public participation, and making motions. Steven Cook stated that motions are passed by simple majority with ties resulting in the motion not passing.

b. CDFA Rulemaking to Make Enforceable NIST HB 44 paragraph N.3. Lucian Stacy commented that there is a legitimate reason for testing scales with more certified test weights because one would not know whether the scale would be accurate at heavier loads. Lucian Stacy further commented that other states have already been complying with NIST HB 44 requirements. Branden Woolley agreed with Lucian Stacy and provided an example of scales failing at higher weight loads in Napa County when the officials retested the same scale using greater quantities of test weight. Lucian Stacy commented how businesses will only use lower weight test trucks unless otherwise required or enforced to do so.

Tom Pisani pointed out that counties cannot require RSAs to have weight standards due to the phrase “have available to use” in Business and Professions Code (BPC) Division 5, Section 12533. Tom Pisani anticipated county survey responses to show readiness in complying with NIST HB 44 Table 4 requirements. Lucian Stacy asked for

clarification on the enforcement of CDFA-DMS's classifications of RSAs based on the RSA's certified test weights during annual license registration. Clark Cooney responded that BPC Section 12533 conflicts with regulations and thus becomes unenforceable without NIST HB 44, paragraph N.3. Michelle Buran asked for clarification on whether the wording of law was being discussed or minimum test load amounts were being proposed. Steven Cook, Clark Cooney, and Samuel Ferris clarified that no new minimums or wording were being discussed, but rather the readoption of NIST HB 44 paragraph N.3. and Table 4 to realign California regulation with NIST HB 44. Lucian Stacy expressed dissatisfaction on how NIST HB 44 paragraph N.3. is not addressed in the RSA licensure test.

c. Task Group to Review California Code of Regulations Title 4, Sections 4001. Exceptions. and 4002. Additional Requirements. Steven Cook asked for comments or questions to establish a task group to review and discuss exceptions and additional requirements and to provide recommendations to the Committee to further align with NIST HB 44. Lynn Carmichael nominated Lucian Stacy for the task group. Steven Cook asked for a motion to establish the task group. Lucian Stacy made a motion, seconded by Branden Woolley, to establish the task group. The Committee members voted unanimously to establish the task group.

Name	Vote	Comment
Sam Bayless	Yea	
Michelle Buran	Yea	
Lynn Carmichael	Yea	
Steven Cook	Yea	
Tom Pisani	Yea	
Lucian Stacy	Yea	Motion
Branden Woolley	Yea	Second

Samuel Ferris stated that the task group, as a subcommittee, must comply with Bagley-Keene requirements of notifying the public by posting the meeting's agenda at least 10 days beforehand. Samuel Ferris will research what the minimum number of participants for the task group may be and whether the public (non-committee members) may participate in the task group. Lucian Stacy motioned first, seconded by Lynn Carmichael, to delay choosing task group members by moving the decision to the next meeting awaiting clarification of public participation in the task group. Therefore, the Committee did not vote on which members would participate in the task group. However, no member voiced opposition of the motion to delay this decision.

F. NEXT MEETING AGENDA

Steven Cook asked for feedback on scheduling quarterly meetings. Lynn Carmichael agreed. Regarding the work of the task group, Lynn Carmichael asked for study

material for the next meeting. Samuel Ferris agreed to provide study material by sending links to applicable sections of NIST HB 44 and CCR.

Lucian Stacy asked for information about the discussion of NIST HB 44, paragraph N.3. in a recent weights and measures sealer's meeting. Lucian Stacy claimed that information could be used to make committee recommendations more relevant. Samuel Ferris did not have information of the sealer's meeting but will follow up at the next meeting if information is made available.

Lucian Stacy made a motion, seconded by Michelle Buran, to approve scheduling quarterly meetings. The Committee members voted unanimously to approve the motion.

Name	Vote	Comment
Sam Bayless	Yea	
Michelle Buran	Yea	Second
Lynn Carmichael	Yea	
Steven Cook	Yea	
Tom Pisani	Yea	
Lucian Stacy	Yea	Motion
Branden Woolley	Yea	

Branden Woolley suggested bringing someone to the task group with a perspective on measuring devices, contrasting from those with perspective on weighing devices. Lucian Stacy agreed with the suggestion.

G. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Clark Cooney recommended that the task group review the exceptions and additional requirements in CCR that are not in NIST HB 44. Clark Cooney also mentioned that NIST has HB 44 self-study training material available online.

Lucian Stacy suggested that an agenda item for the next meeting be made to discuss revising the RSA licensure test to include more comprehension. Clark Cooney commented that CDFA-DMS mainly tests the knowledge of California laws and regulations relating to the RSA Program and not an individual's technical training.

Samuel Ferris proposed for an agenda item be added to the next meeting to discuss the topic of the upgrading CDFA-DMS's RSA database as a future agenda item.

No other public comments were made.

H. ADJOURNMENT

Steven Cook adjourned this meeting at 11:29 a.m.

Respectfully submitted:

Samuel Ferris
Senior Environmental Scientist
CDFA-DMS Liaison to the RSA Advisory Committee

DRAFT 2/15/2022