

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date 1/31/25 *Check all that apply:*
Prepared: _____
Bill SB 214 Original Correct
Number: _____ ion _____
 Amend _____ Substit
 ment _____ ute _____

Spons _____
or: Crystal Brantley
Agency _____
Name and _____
Code _____
Number: NMDA - 199
Person Writing _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	N/A	None

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Recurring	Agency/General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 214 (SB214) proposes amendments to 11 agency statutes and repeals one statute. Primary amendments include:

1. Establishes administrative penalty authority at the agency level specific statutes, citing that authority where relevant; provides New Mexico state university (NMSU) board of regents authority to establish in rule monetary penalty guidelines for the New Mexico department of agriculture (NMDA). Statutes clarify that administrative penalties shall be deposited in the state treasury to the credit of the current school fund.
2. Proposes updates to fee limits directed at fulfilling regulatory obligations under the Pesticide Control Act, Plant Protection Act, Fertilizer Act, Commercial Feed Act, Egg Grading Act, Weights and Measures Act, Weighmasters Act, Petroleum Products Standards Act.
3. Provides definitions of additional terms; clarifying language; general language clean-up where needed; amendments made to comply with recent federal requirements; and regulations repealed or updated to align with evolving business practices.
4. Proposes to repeal bonding sections of the Weights and Measures Act and Weighmaster Act. Establishes registration sections in the Weights and Measures Act and Petroleum Products Standards Act for service establishments and service technicians to service weights and measures devices used in commerce.
5. Proposes the repeal of the 1899 Act 76-5-1 (NMSA) "County Commissioners to Prohibit Importation of "Codlin [sic] Moth" or Other Worms or Insects Destructive to Fruit."

FISCAL IMPLICATIONS

Although SB214 proposes updated fee limits within specific statutes, the fiscal impact on NMDA's budgets is unknown until specific fees for public services are established through the rule-making process, including approval by the NMSU board of regents.

SIGNIFICANT ISSUES

Increases in the cost of inspection and sampling, the complexity of investigations, cost and complexity of laboratory analysis and general public concern around food and environmental issues have stretched current resources, challenging the ability of NMDA to adequately provide consumers, the regulated industries and producers the services and activities obligated in accordance with the regulations. Fee limits within specific statutes addressed in the bill have not been updated in decades.

The fee limit proposed in the Pesticide Control Act and expected fee increase related to the review, registration, and inspection of pesticide products will impact approximately 1,545 out-of-state and 13 New Mexico businesses. The proposed increase in the fee limit from \$150 to \$300 per product will result in a limit that will be comparable with states on the lower end of the national scale (\$100-\$2,300/product annually). The fee limit has not been addressed in the past 20 years.

The proposed fee limits under the Commercial Feed Act will help provide the necessary resources for inspecting and sampling commercial feed products. This change would impact approximately 1,092 out-of-state businesses and 64 businesses in New Mexico. The current inspection fee limit at fifteen cents (\$0.15) per ton, twenty-five dollars (\$25.00) for small packages of ten pounds or less was established in 1973. The fee limit was reached in 1977.

The proposed fee limits under the Fertilizer Act will provide essential resources for product registration review, as well as the inspection and sampling of fertilizer products. This change would affect approximately 620 out-of-state businesses and 38 businesses in New Mexico. The current registration fee at five dollars (\$5.00) and inspection fee limit at thirty-five cents (\$0.35) per ton, and ten dollars (\$10.00) for small packages of five pounds or less was established in 1976. The fee limit was reached in 1977.

The current egg dealer fee limits stated in the Egg Grading Act have not been addressed since 1973. The proposed fee limit increase will provide for inflation adjustments over the past 51 years.

The Weights and Measures Act currently requires bonding of the director of NMDA and the inspector engaged in the servicing of measuring/weighing devices. This responsibility has been assumed by registered service establishments and their technicians. These responsibilities, registration and fees of service establishments and service technicians are absent from the law. In addition, the Petroleum Products Standards Act lacks the authority for NMDA to authorize service establishments and service technicians to service petroleum devices used in commerce and obtain registration.

The Weighmaster Act currently requires a bond for weighmasters and their deputies, this requirement is unnecessary and requires NMDA to obtain unutilized documents. Weighmaster and deputy weighmaster fees are absent from the law. Establishing licensing fee limits provides transparency.

SB214 proposes repealing the fee requirement for commercial beekeepers to register apiary locations and repeal the 1.5-mile distance requirement between a registered apiary and another beekeeper's hive (not located on that beekeeper's property). The amendments are primarily a result of commercial beekeepers' input regarding the distance requirement thus hindering the ability of new and established beekeepers to utilize forage areas. Additionally, the intent of the 1975 distance requirement was to prevent the spread of newly introduced bee diseases from one apiary to another. Practice and research have largely demonstrated the 1.5-mile distance requirement is

insufficient in mitigating the spread of bee diseases and pests. Texas, Arizona, and Colorado, along with other states, have repealed registration requirements over the years. Currently 9 registered beekeepers are registered with the state.

Proposed fee limit increases for the Plant Protection Act were last amended in 1979. The proposed fee limit increase will provide for inflation adjustments over the past 51 years.

Administrative fine authority for NMDA is proposed to address outdated and primarily ineffective penalty sections of specific statutes, including the use of the court system to assess fines. Additionally, proposed amendments clarify NMDA's authority to file injunctions to prevent continuous violations.

Quarantine authorities addressed in the 1899 Act 76-5-1 (NMSA) "County Commissioners to Prohibit importation of "Codlin [sic] Moth" have been supplanted by similar authorities addressed in 76-6-1 (NMSA) "Pest Control Act". The repeal of 76-5-1 will have no impact on NMDA's ability to address new plant pests of significant importance.

PERFORMANCE IMPLICATIONS

An increase in program efficiencies is expected for services provided to New Mexico citizens and regulated industries through enhanced outreach and improved access to resources and technology. This will enable faster response times and more effective investigations of consumer complaints, while also strengthening food safety and security, environmental protection, and public health.

ADMINISTRATIVE IMPLICATIONS

NMDA would be able to maintain the resources and personnel necessary to effectively and efficiently provide the services and duties mandated by the acts. This would include:

1. The ability to add the fulltime employees required to: maintain program efficiencies; provide the expertise necessary to address consumer protection; address food safety and security requirements; support environmental protections; and safeguard public health.
2. Enabling the development, implementation, and maintenance of technologies to improve efficiency in license and registration processing; enhance security and verification of applicator, licensee, and registrant information; provide greater public access to databases; support effective consumer complaint investigation; ensure timely responses to public information requests; and strengthen laboratory analysis capabilities.
3. Greater public and industry outreach through learning and training opportunities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB231, which removes the definition of "soil conditioner" and all related references from specific sections of the Fertilizer Act. Similarly, SB214 eliminates the "soil conditioner" definition and strikes all mentions from the Fertilizer Act.

TECHNICAL ISSUES

None known at this time

OTHER SUBSTANTIVE ISSUES

None known at this time

ALTERNATIVES

None known at this time

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Primary consequences include:

NMDA's continued noncompliance with federal requirements for at least two additional years (United States Environmental Protection Agency, Pesticide Control Act); fee-dependent programs will continue to struggle to meet statute and stakeholder requirements; and NMDA's ability to address violations of statute requirements will continue to be problematic.

Anticipated constraint of resources, by not keeping up with inflation, will negatively affect the ability of NMDA to adequately maintain statewide presence and meet the needs of the regulated industries and the general public.

NMDA will continue to require and collect unnecessary documents related to bonding of external companies, which delays the current registration and licensing processes.

AMENDMENTS

None at this time.