

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

**LCB File No. R096-15**

Effective December 21, 2015

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

AUTHORITY: §1, NRS 581.050, 581.067, as amended by section 136 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3620, and NRS 581.075.

A REGULATION relating to measuring devices; requiring a fee to be charged for the retesting of certain cash registers and point-of-sale systems; setting the amount of the fee; revising the amount of the fee for certification of standards used in testing; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the State Sealer of Consumer Equitability to conduct random tests of cash registers and point-of-sale systems to ensure compliance with certain standards. (NRS 581.067, as amended by section 136 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3620) Existing law also authorizes the State Sealer to establish necessary fees for testing. (NRS 581.075) Existing regulations establish fees for certain tests conducted by the State Sealer. (NAC 581.210) This regulation adds fees for the retesting of cash registers and point-of-sale systems which are found to be out of compliance with standards during a random test. This regulation also revises the fees for the certification of standards used in testing.

**Section 1.** NAC 581.210 is hereby amended to read as follows:

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

(a) A retest of ~~the~~ :

*(1)* A device which was marked “out of order” during a test ~~it~~ ; *or*

*(2) 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, as amended by section 136 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3620.*

(b) A trip to test a device which was not available or ready for testing at the time scheduled for a test.

(c) A test requested for a device if a special trip is required to perform the test. If, upon the arrival of the inspector, the 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 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 an annual test.

2. The fees for tests of devices are:

(a) For scale devices:

500 pounds and under .....	\$25
Over 500 pounds through 2,000 pounds .....	50
Over 2,000 pounds through 5,000 pounds .....	100
Over 5,000 pounds .....	160
Hopper, 5,000 pounds and under .....	300
Hopper, over 5,000 pounds .....	350
Livestock or vehicle scale, 40,000 pounds and under .....	130
Livestock or vehicle scale, over 40,000 pounds .....	200

(b) For linear devices .....	25
(c) For meter devices: .....	
Dispenser, hose, meter or octane grade tested with a 5-gallon prover .....	25
Dispenser tested with a prover larger than 5 gallons .....	95
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute .....	95
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute .....	160
Nontemperature-compensated meter used to measure liquid petroleum gas.....	100
Temperature-compensated meter used to measure liquid petroleum gas .....	200
(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 .....	<del>140</del> 75
For certification of standards for use in testing a noncommercial device .....	<del>180</del> 95
<i>(e) For point-of-sale systems and cash registers not in compliance:</i>	
<i>For not more than five point-of-sale systems or cash registers .....</i>	<i>50</i>
<i>For six or more point-of-sale systems or cash registers .....</i>	<i>125</i>
3. Failure to pay a fee required pursuant to this section within 30 days after receipt of the bill for the fee is a violation of this section.	

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS- NRS 581.050,581.067  
Informational Statement  
LCB File No. R096-15

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

The need to adopt changes to NAC 581.210 is twofold. First, AB 77 directs CE to check point-of sales devices as well as cash registers for accuracy but does not provide a licensing fee for these devices. This fee request will help cover the cost of the program as well as the cost to the State for rechecking devices that are non-compliant. Second, the fees the department has been charging for metrology work does not begin to cover the costs of the program. The Metrologist position ranges from a paygrade 32-36 and the cost of upgrading aging equipment has been in excess of \$60,000.

2. Description of how public comment was solicited,a summary of public response,and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of fertilizer standards, as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NOA) mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture  
405 South 21st Street  
Sparks, NV 89431-5566

Nevada Department of Agriculture  
2150 Frazer Avenue  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 Mcleod Street  
Las Vegas, NV 89104-4314

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89801-4672

Interested persons may obtain a copy of the summary by contacting:  
Nevada Department of Agriculture  
Attn: Bart O'Toole, Consumer Equitability Division  
2150 Frazer Ave  
Sparks, NV 89431

3. The number of persons who:
  - (a) Attended each hearing:
  - (b) Testified at each hearing:
  - (c) Submitted written comments:  
Workshop: September 10, 2015  
Number in attendance: 3 (1 NDA Staff)

Number testifying: 1  
Written statements submitted: 0

Hearing: November 23, 2015  
Number in attendance: 1(NDA Staff)  
Number testifying: 0  
Written statements submitted: 0

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:
- (a) Name;
  - (b) Telephone number;
  - (c) Business address;
  - (d) Business telephone number;
  - (e) Electronic mail address; and
  - (f)( Name of entity or organization represented.

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Retail Association of Nevada  
Lea of RAN testified in favor of the proposed changes.

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

Comments were solicited from affected businesses utilizing a web based survey emailed

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

No changes were requested or required.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.
- (a) Estimated economic effect on the businesses which they are to regulate.
  - (b) Estimated economic effect on the public which they are to regulate.

The estimated economic effect on the business these fees regulate is minimal.  
The fee only applies to point-of -sales and cash registers that are out of

compliance. The fee increase associated with metrology work will bring Nevada in line with fees charged by other states.

Cost of State Lab calibration Services			
State	Data Date	Cost (per hour)	Notes
Nevada		\$75-\$95	
Arizona	2/11/2015	\$110.00	per state web site
Oregon	2/11/2015	\$110-\$135	
Washington	2/3/2015	\$105.50	
Idaho	2/12/2015	\$80.00	Data from 2011
South Dakota	2/11/2015	\$96.00	per state web site
California	2/11/2015		Cost not posted on Web site
Utah	2/17/2011	\$35.00	
New Mexico	2/17/2015	\$96.00	Approximate, based on the size of weight
Colorado	2/17/2015	\$40.00	Doesn't cover cost 90% tax funded

There is no estimated or calculated economic effect on the public for this fee increase.

8. The estimated cost to the agency for enforcement of the proposed regulation:

There is no additional cost to the agency for the enforcement of this regulation.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

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

N/A

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Current fees for metrology work in the state of Nevada range from \$40 to \$80/Hour. Currently there are no fees associated with point-of sales or cash registers found out of compliance

Fee Increase Proposal: The proposal will increase metrology fees to between \$75 and \$95/ Hour. Fees for non-compliant cash registers and point-of sales devices will be \$50 or \$125 depending on total number of cash registers and point-of-sales devices.

Estimated additional revenue will be hard to determine for point-of sales devices and cash registers as this is a new program and we have no data available to estimate revenue. Additionally fees can only be charged for out of compliance devices.

Estimated additional revenue for metrology will approximately \$10,000- \$15,000 based on historical data.

The money from the metrology fee increase will be used to help offset the salaries of the Meteorologists as well as updating and maintaining equipment.

Nevada's metrology fees remain among the lowest fee of all surrounding states. The fees will increase the cost to businesses, but if Nevada cannot sustain its Metrology Lab then cost to industry will increase even more due to higher fees charged by other states as well as transportation costs.