

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

LCB File No. R179-12

March 7, 2014

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

AUTHORITY: §§1-3 and 8, NRS 581.050 and 581.067; §§4 and 5, NRS 581.050, 581.067 and 581.075; §6, NRS 581.050, 581.065 and 581.067; §7, NRS 581.050, 581.067 and 581.103.

A REGULATION relating to weights and measures; adopting by reference certain standards of the National Institute of Standards and Technology; revising provisions relating to the authorization of the use of certain weighing and measuring devices; revising the schedule for the certification of certain standards used to repair or adjust weighing and measuring devices; increasing certain fees relating to special tests; establishing fees for certain tests of weighing and measuring devices; establishing fees for certain rechecks; and providing other matters properly relating thereto.

Section 1. NAC 581.005 is hereby amended to read as follows:

581.005 As used in this chapter, unless the context otherwise requires:

1. “Department” means the State Department of Agriculture.
2. “Division” means the Division of ~~[Measurement Standards]~~ *Consumer Equitability* of

the Department.

3. “Point-of-sale system” means an assembly of elements, including, without limitation, a weighing or measuring element, an indicating element and a recording element, used to complete a retail sale.

Sec. 2. NAC 581.009 is hereby amended to read as follows:

581.009 1. The State Sealer of ~~[Weights and Measures]~~ *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 ~~{Weights and Measures}~~ *Consumer Equitability* for use in this State. Each new revision shall be deemed approved by the State Sealer of ~~{Weights and Measures}~~ *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 ~~{Weights and Measures}~~ *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 and Archives Administrator. The most recent revision that has been approved by the State Sealer of ~~{Weights and Measures}~~ *Consumer Equitability* will be available for inspection at the office of the Bureau of Weights and Measures, Division of ~~{Measurement Standards,}~~ *Consumer Equitability*, 2150 Frazer Avenue, Sparks, Nevada 89431, or may be obtained free of charge from the Weights and Measures Division, NIST, 100 Bureau Drive, STOP 2600, Gaithersburg, Maryland ~~{20899-2600,}~~ *20899-2350*, or at ~~{http://ts.nist.gov,}~~ <http://www.nist.gov/pml/wmd/pubs/index.cfm>.

Sec. 3. NAC 581.030 is hereby amended to read as follows:

581.030 1. The State Sealer of ~~{Weights and Measures}~~ *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 ~~1-2~~”; *and*

(h) The “Uniform Engine Fuels and Automotive Lubricants Regulation,”

↪ as set forth in the *National Institute of Standards and Technology Handbook 130: Uniform Laws and Regulations*, ~~2003~~ *2011* edition, and any subsequent revision of that portion of the publication that has been approved by the State Sealer of ~~Weights and Measures~~ *Consumer Equitability* for use in this State. Each revision of that portion of the publication shall be deemed approved by the State Sealer of ~~Weights and Measures~~ *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 ~~Weights and Measures~~ *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 and Archives Administrator. The most recent revision that has been approved by the State Sealer of ~~Weights and Measures~~ *Consumer Equitability* will be available for inspection at the office of the Bureau of Weights and Measures, Division of ~~Measurement Standards,~~ *Consumer Equitability*, 2150 Frazer Avenue, Sparks, Nevada 89431, or may be ~~purchased by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by telephone at (866) 512-1800, for the price of \$31.50.~~ *obtained free of charge from the National Institute of Standards and Technology at the Internet address*
<http://www.nist.gov/pml/wmd/pubs/index.cfm>.

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. 4. NAC 581.210 is hereby amended to read as follows:

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

(a) A retest of a device which was marked “out of order” during a test.

(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.

(g) An inspection of a point-of-sale system. If, upon the arrival of the inspector, the inspection scheduled for the point-of-sale system 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 remains due.

(h) A reinspection of a point-of-sale system that scored 97 percent or less on a previous inspection to verify the accuracy of prices, computations, and prices printed or recalled from a database.

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 devices25

(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.....	{40} 50
For certification of standards for use in testing a noncommercial device.....	{80} 100

(e) For accredited certification of any standard with a certificate of calibration from the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology.....100

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 ~~{H}~~, *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 50 percent of the amount of the fee that is paid late.*

Sec. 5. 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 *and collected* for a special test *or recheck*, except as otherwise provided in this section:

- (a) For each hour for testing *or rechecking* a device above the time normally required to perform that test *or recheck* ~~{\$40}~~ \$50
- (b) For each hour for witnessing the test *or recheck* of a device that is not conducted by the Division..... ~~{40}~~ 50
- (c) For mileage, per mile for:
 - Pickup truck..... ~~{H}~~ 3
 - Livestock test truck..... ~~{2}~~ 7
 - Petroleum prover truck..... ~~{2}~~ 7

- ~~{Motor}~~ *Large weight* truck and hopper test truck ~~{3}~~ 9
 - (d) ~~{For}~~ *Except as otherwise provided in paragraph (e), for* each hour of required travel of the inspector, in addition to the fees specified in paragraph (c)..... ~~{40}~~ 50
 - (e) *For each hour of required travel of two inspectors, in a livestock test truck, in addition to the fees specified in paragraph (c) 100*
 - (f) For the per diem of ~~{the}~~ *each* 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 tests *or rechecks* of devices in the same area if all the devices can be tested *or rechecked* during the same trip.
3. Only the fee prescribed by NAC 581.210 for a test of a device will be charged if:
- (a) The test can be made during a scheduled trip for inspections 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 ~~{Weights and Measures}~~ *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 within 30 days after receipt of the bill for the fee is a violation of this section.

6. For the purposes of this section, “recheck” means a test performed after a device has been recalibrated or otherwise adjusted to measure correctly.

Sec. 6. NAC 581.230 is hereby amended to read as follows:

581.230 1. Except as otherwise provided in subsection 2, before use for a commercial or governmental purpose, a type of:

(a) Weighing or measuring device kept or used in:

(1) Proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, which are purchased, offered or submitted for sale, hire or award;

(2) Computing a basic charge or payment for services rendered on the basis of weight and measure; or

(3) Determining weight or measure when a charge is made for the determination;

(b) Accessory attached to or used in connection with a commercial weighing or measuring device which is designed so that its operation affects the accuracy of the device; and

(c) Weighing and measuring device in official use for law enforcement or the collection of statistical information by a governmental agency,

↪ must have been issued a certificate of conformance.

2. The State Sealer of ~~{Weights and Measures}~~ *Consumer Equitability* will authorize the use of a type which has not been issued a certificate of conformance if the type:

(a) Was in use before January 2, 1995; and

(b) ~~{Subsequently passes the applicable tests for tolerance.}~~ *Meets the standards set forth in the National Institute of Standards and Technology Handbook 44, which is adopted by reference in NAC 581.011.*

3. As used in this section:

(a) “Certificate of conformance” means a document issued by the National Institute of Standards and Technology, ~~{of the Technology Administration of the United States Department of Commerce,}~~ which guarantees that a weight, measure or weighing or measuring device meets the standards set forth in the *National Institute of Standards and Technology Handbook 44*.

(b) “Type” means a model of a particular system of measurement, instrument or element or a field standard which positively identifies the design.

Sec. 7. NAC 581.330 is hereby amended to read as follows:

581.330 An applicant for *the issuance or renewal of* a certificate of registration as a serviceperson or a service agency must provide to the State Sealer of ~~{Weights and Measures}~~ *Consumer Equitability* proof that:

1. The applicant has read and understands the provisions of this chapter and chapter 581 of NRS;

2. The standards used by the applicant to repair or adjust weighing or measuring devices have been certified pursuant to NAC 581.350 as complying with the provisions set forth in the *National Institute of Standards and Technology Handbook 44*, which is adopted by reference ~~{pursuant to}~~ *in* NAC 581.011, and the National Institute of Standards and Technology 105-Series Handbooks and Training Materials which are adopted by reference ~~{pursuant to}~~ *in* NAC 581.009; and

3. The applicant has sufficient standards and equipment to test devices adequately as set forth in the notes section of each applicable code in the *National Institute of Standards and Technology Handbook 44*.

Sec. 8. NAC 581.350 is hereby amended to read as follows:

581.350 The standards used by a service agency or serviceperson to repair or adjust a weighing or measuring device must be certified by a laboratory that has been qualified by the National Institute of Standards and Technology to certify such standards or the State Sealer of ~~Weights and Measures~~ *Consumer Equitability* according to the following schedule:

Standards for measuring mass.....	Every 2 years
Standards for measuring volume (<i>less than 5 gallons</i>)	Annually
Standards for proving volume (<i>5 gallons or more</i>)	Every 5 2 years
Any other standards	As prescribed by the State Sealer of Weights and Measures <i>Consumer Equitability</i>