

**PROPOSED REGULATION OF THE
STATE SEALER OF MEASUREMENT STANDARDS**

LCB FILE NO. R070-221

**The following document is the initial draft regulation proposed
by the agency submitted on 05/13/2022**

PROPOSED PERMANENT REGULATION OF THE STATE SEALER OF MEASUREMENT STANDARDS

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

AUTHORITY: §§1, 2, 6 and 7 NRS 581.050 and 581.067; §§3 and 4 NRS 581.050, 581.067 and 581.075; §5 NRS 581.050, 581.065 and 581.067

PURPOSE: To update information relating to acquiring copies of certain published standards which are adopted by reference for specifications and tolerances for field reference standards; to repeal the “Uniform Open Dating Regulation” pursuant to Assembly Bill 75 of the 81st Legislative Session; to update the fee amount charged for reinspection, retest or a special test of certain weighing and measuring devices; to update the fee amounts charged for certification of standards; to revise the schedule for certification of certain standards; to revise the requirements under which a certificate of conformance is required before using certain types of devices and accessories for a commercial or governmental purpose, correcting the name of the entity which issues such certificates, amending the definition of certificate of conformance and the definition of type to provide additional clarification; and, to repeal the duty of a person who installs or makes a repair or adjustment to a weighing or measuring device used as commercial weighing and measuring equipment to notify the State Sealer of Measurement Standards by oral communication within 24 hours after installing the device or making the repair or adjustment to the device.

Section 1. NAC 581.009 is hereby amended to read as follows:

581.009 1. The State Sealer of Measurement Standards 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 Measurement Standards for use in this State. Each new revision shall be deemed approved by the State Sealer of Measurement Standards 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 Measurement Standards 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, Archives and Public Records Administrator. The most recent revision that has been approved by the State Sealer of Measurement Standards will be available for inspection at the offices of the ~~[Bureau of Weights and Measures, Division of Measurement Standards]~~ *Department*, ~~[2150 Frazer Avenue]~~ *405 S 21st Street*, Sparks, Nevada 89431, *2300 E. St. Louis Avenue, Las Vegas, Nevada, and 4780 E. Idaho Street, Elko, Nevada*

or may be obtained free of charge from the ~~[Weights and Measures Division, NIST]~~*National Institute of Standards and Technology Office of Weights and Measures*, 100 Bureau Drive, STOP 2600, Gaithersburg, Maryland 20899-2600, or at [https://\[ts\]www.nist.gov/pml/weights-and-measures/publications](https://[ts]www.nist.gov/pml/weights-and-measures/publications).

Section 2. NAC 581.030 is hereby amended to read as follows:

581.030 1. The State Sealer of Measurement Standards 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”; *and*

(f) ~~[The “Uniform Open Dating Regulation”]; and~~

~~(g)~~ The “Uniform Regulation for National Type Evaluation,”

↪ as set forth in the *National Institute of Standards and Technology Handbook 130: Uniform Laws and Regulations*, 2003 edition, and any subsequent revision of that portion of the publication that has been approved by the State Sealer of Measurement Standards for use in this State. Each revision of that portion of the publication shall be deemed approved by the State Sealer of Measurement Standards 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 Measurement Standards 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, Archives and Public Records Administrator. The most recent revision that has been approved by the State Sealer of Measurement Standards will be available for inspection at the offices of the ~~[Bureau of Weights and Measures, Division of Measurement Standards]~~ *Department*, ~~[2150 Frazer Avenue]~~*405 S 21st Street*, Sparks, Nevada 89431, *2300 E. St. Louis Avenue, Las Vegas, Nevada, and 4780 E. Idaho Street, Elko, Nevada, may be accessed free of charge at <https://www.nist.gov/pml/weights-and-measures/publications>*, 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,]~~*National*

Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, Nebraska, 68508, or by telephone at (402) 434-4880, for the price of [~~\$31.50~~] \$46.

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.

Section 3. NAC 581.210 is hereby amended to read as follows:

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

(a) A reinspection or retest of:

(1) A device found to not be in compliance during an inspection or test conducted pursuant to subsection 2, 7, 10, 11, 12 or 22 of NRS 581.067 and for which a notice or order stating “repair,” “stop-use,” “hold,” “out of order” or some other such notice or order was issued by the State Sealer of Measurement Standards;

(2) A packaged commodity found to not be in compliance during an inspection or test conducted pursuant to subsection 14 of NRS 581.067 and for which an order stating “hold” or “stop-use” or some other such order was issued by the State Sealer of Measurement Standards;

(3) A commodity for which the method of sale was found to not be in compliance during an inspection or test conducted pursuant to subsection 15 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Measurement Standards;

or

(4) A commodity for which the advertised price was found to not be in compliance during an inspection or test conducted pursuant to subsection 18 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Measurement Standards.

(5) 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.

↪ If, upon the arrival of the inspector during normal business hours, a reinspection or retest described in subparagraphs (1) to (5), inclusive, 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 the reinspection or retest remains due.

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

(1) Of a routine inspection or test conducted on any commercial premises during normal business hours pursuant to subsection 11 of NRS 581.067; or

(2) Scheduled for a special trip to inspect or test a device.

(c) An inspection or test requested for a device if a special trip is required to perform the inspection or test. If, upon the arrival of the inspector, the inspection or 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 inspection or 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 a test conducted by the Division.

2. The fees for inspections and tests of devices conducted by the Division pursuant to this section are:

(a) For scale devices:

500 pounds and under tested with a Class F, Echelon III weight kit	\$32
500 pounds and under tested with a Class II, Echelon II weight kit	45 60
Over 500 pounds through 2,000 pounds	90
Over 2,000 pounds through 5,000 pounds	240
Over 5,000 pounds through 30,000 pounds	420
Over 30,000 pounds	450
Hopper, 5,000 pounds and under	600
Hopper, over 5,000 pounds	750

(b) For linear devices

42

(c) For meter devices:

Dispenser, hose, meter or octane grade tested with a 5-gallon prover	30
Dispenser tested with a prover larger than 5 gallons	222
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute	222
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute	420

Non-temperature-compensated meter used to measure liquid petroleum gas	222
Temperature-compensated meter used to measure liquid petroleum gas	450
(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 <i>registered in accordance with the provisions of NAC 581.330</i>	[75] 95
For certification of standards for use [in testing a noncommercial device] <i>by any person other than those registered in accordance with the provisions of NAC 581.330</i>	[95] 115
(e) For point-of-sale systems and cash registers not in compliance:	
For not more than five point-of-sale systems or cash registers	50
For six or more point-of-sale systems or cash registers	125
3. The fees for reinspecting or retesting a commercial device which has been repaired or adjusted following a determination of noncompliance pursuant to subsection 1 and for which no follow-up trip is required to perform the reinspection or retest are:	
(a) For scale devices:	
500 pounds and under tested with a Class F, Echelon III weight kit	\$16
500 pounds and under tested with a Class II, Echelon II weight kit	23
Over 500 pounds through 2,000 pounds	45
Over 2,000 pounds through 5,000 pounds	120
Over 5,000 pounds through 30,000 pounds	210
Over 30,000 pounds	250
Hopper, 5,000 pounds and under	300
Hopper, over 5,000 pounds	375
(b) For linear devices	21
(c) For meter devices:	
Dispenser, hose, meter or octane grade tested with a 5-gallon	

prover	15
Dispenser tested with a prover larger than 5 gallons	111
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute	111
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute	210
Nontemperature-compensated meter used to measure liquid petroleum gas	111
Temperature-compensated meter used to measure liquid petroleum gas	225

4. The fee for each 15-minute time period, or portion thereof, required to witness an inspection or test of a device which is not conducted by the Division or the State Sealer of Measurement Standards is \$15.

5. The fee for each 15-minute time period, or portion thereof, required to conduct a reinspection or retest of labels, packaged commodities, advertised prices or commodity methods of sale is \$15.

6. Failure to pay a fee required pursuant to this section by the due date indicated on the bill, which must not be less than 30 days after the bill is issued by the Division, is a violation of this section 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 10 percent of the amount of the fee that is paid late.

7. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring devices at a time scheduled specifically for the convenience of the owner of such devices.

Sec. 4. 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 for an inspection or test conducted during a special trip except as otherwise provided in this section:

(a) For each 15-minute period, or portion thereof, for inspecting or testing a device or commodity above the time normally required to perform that test..... \$15

(b) For mileage, per mile for:

Pickup truck 1

Petroleum prover truck 3
 Test truck for scale devices over 2,000 pounds 4

(c) For each 15-minute period, or portion thereof, of required travel of the inspector, in addition to the fees specified in paragraph (b)15

(d) For the per diem of the 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 inspections or tests of devices or commodities in the same area if all the devices or commodities can be inspected or tested during the same trip.

3. Only the fee prescribed by NAC 581.210 for an inspection or test of a device or commodity will be charged if the inspection or test can be made during a scheduled trip for other inspections or tests in the vicinity.

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

~~[(e)]~~ (b) Testing which requires special arrangements or conditions,

↪ will be determined by agreement between the State Sealer of Measurement Standards and the owner or operator of the device or standard to be tested.

5. Failure to pay a fee required pursuant to this section by the due date indicated on the bill for the fee, which must be not less than 30 days after the bill is issued by the Division, is a violation of this section 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 10 percent of the amount of the fee that is paid late.

6. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring devices at a time scheduled specifically for the convenience of the owner of such devices.

Sec. 5. 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 *metrological* 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]~~ *be traceable to an active* certificate of conformance. *If the device consists of separate and compatible main elements, each main element must be traceable to an active certificate of conformance.*

2. The State Sealer of Measurement Standards will authorize the use of a type which ~~[has]~~ *is* not ~~[been issued]~~ *traceable to an active* certificate of conformance if the type:

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

(b) Subsequently passes the applicable tests for tolerance; *or*

(c) Does not have evaluation procedures published in the National Conference on Weights and Measures (NCWM), Publication 14, “National Type Evaluation Program, Technical Policy, Checklists, and Test Procedures”; or

(d) Is a One-of-a-Kind Device without a National Type Evaluation pending inspection and performance testing to satisfy that the device complies with the National Institute of Standards and Technology Handbook 44: Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices and is capable of performing within such requirements for a reasonable period of time under normal conditions of use. Indicators and load cells in all “One-of-a-Kind Device” scale installations must have an active certificate of conformance as evidence that the system meets the applicable influence factor requirements as specified in the National Institute of Standards and Technology Handbook 44: Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices.

3. As used in this section:

(a) “Certificate of conformance” means a document issued *based upon testing by a participating laboratory which the certificate holder maintains in active status under* ~~[by]~~ the ~~[National Institute of Standards and Technology of the Technology Administration of the United States Department of Commerce]~~ *National Type Evaluation Program of the National Conference on Weights and Measures*, which ~~[guarantees]~~ *constitutes evidence* that a weight, measure or weighing or measuring device meets the standards set forth in the *National Institute of Standards and Technology Handbook 44 and the test procedures contained in the National Conference on Weights and Measures Publication 14.*

(b) “Type” means a model of a particular system of measurement, instrument or element ~~[or a field standard which]~~ *that* positively identifies the design. *A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the certificate of conformance.*

(c) “Participating Laboratory” means any laboratory that has been authorized to conduct a type evaluation under the National Type Evaluation program of the National Conference on Weights and Measures.

(d) “One-of-a-Kind Device” means a device designed to meet unique demands for a specific installation and of a specific design which is not commercially available elsewhere.

Sec. 6. NAC 581.350 is hereby amended to read as follows:

581.350 Schedule for certification of standards. (~~NRS 581.050, 581.067~~) 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 Measurement Standards according to the following schedule:

Standards for measuring mass.....	Every 2 years
<i>Handheld or portable</i> [S] standards for measuring volume <i>from 1 gallon up to 5 gallons</i>	Annually
<i>Mounted</i> [S] standards for proving volume <i>from 5 gallons up to 100 gallons</i>	Every [S] 2 years

Mounted standards for proving volume from 101 gallons up to 1000 gallons

Every 4 years

Any other standards.....

As prescribed by the State
Sealer of Measurement
Standards

Sec. 7. NAC 581.370 is hereby amended to read as follows:

581.370 A person who installs or makes a repair or adjustment to a weighing or measuring device *used as commercial weighing or measuring equipment* shall[=

~~—1.— Within 24 hours after installing the device or making the repair or adjustment to the device, notify the State Sealer of Measurement Standards by oral communication that the device has been installed or that the repair or adjustment has been made; and~~

~~—2.—]~~ within 5 days after installing the device or making the repair or adjustment to the device, submit to the State Sealer of Measurement Standards a written notification of the installation, repair or adjustment on a form prescribed by the State Sealer of Measurement Standards.

Sec. 8. 1. This section and sections 1 to 2, inclusive, and 4 to 5, inclusive, and section 7 of this regulation become effective on the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.

2. Sections 3 and 6 of this regulation become effective on July 1, 2023.