

**PROPOSED REGULATION OF THE
STATE SEALER OF WEIGHTS AND MEASURES**

LCB File No. R146-98

August 14, 1998

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

AUTHORITY: §§2-12, NRS 581.055.

Section 1. Chapter 581 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *If the division determines that a person unintentionally violated a provision of chapter 581 of NRS or this chapter, the division may issue a notice of warning to that person without imposing an administrative fine.*

2. A notice of warning issued by the division must be in writing and must set forth:

(a) The statute or regulation that was violated;

(b) The action necessary to remedy the violation; and

(c) The time by which the person must remedy the violation to avoid the imposition of an administrative fine.

Sec. 3. *For a violation of subsection 2 or 4 of NRS 581.090, subsection 4 or 5 of NRS 581.103, subsection 3 of NRS 581.104 or NRS 581.280, the state sealer of weights and measures will impose:*

1. For the first violation, an administrative fine of \$50;

2. For the second violation, an administrative fine of \$100; and

3. *For the third and each subsequent violation, an administrative fine of \$500.*

Sec. 4. *For a violation of NRS 581.105, 581.190, 581.300, 581.303, 581.307, 581.320, 581.330, 581.340, subsection 1 or 2 of NRS 581.370, subsection 1 or 2 of NRS 581.380, NRS 581.390 or 581.400, subsection 2 of NRS 581.405, NRS 581.410 or 581.420, the state sealer of weights and measures will impose:*

1. *For the first violation, an administrative fine of \$25;*
2. *For the second violation, an administrative fine of \$50; and*
3. *For the third and each subsequent violation, an administrative fine of \$100.*

Sec. 5. *For a violation of NRS 581.430, the state sealer of weights and measures will impose:*

1. *For the first violation, an administrative fine of \$100;*
2. *For the second violation, an administrative fine of \$500; and*
3. *For the third and each subsequent violation, an administrative fine of \$1,000.*

Sec. 6. NAC 581.011 is hereby amended to read as follows:

581.011 1. The state sealer of weights and measures hereby adopts by reference the National Institute of Standards and Technology Handbook 44, 1994 edition, and any subsequent edition issued by the National Institute of Standards and Technology, which has been approved by the state sealer of weights and measures for use in [Nevada.] *this state*. Each new edition shall be deemed approved by the state sealer of weights and measures unless he disapproves the edition within 60 days after the date of publication by the National Institute of Standards and Technology. The state sealer of weights and measures will review each edition issued after the 1994 edition to ensure its suitability for [Nevada.] *this state*. The most current

edition that has been approved by the state sealer of weights and measures will be available at the office of Weights and Measures, Division of Agriculture, 2150 Frazer Street, Sparks, Nevada 89431, or may be purchased from the Superintendent of Documents, United States *Government* Printing Office, [Washington, D.C. 20402,] P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of [\$16.] \$23.

2. A violation of a provision of the handbook adopted by reference in subsection 1 shall be deemed a violation of this section and the state sealer of weights and measures will impose:

- (a) For the first violation, an administrative fine of \$25;*
- (b) For the second violation, an administrative fine of \$50; and*
- (c) For the third and each subsequent violation, an administrative fine of \$100.*

Sec. 7. NAC 581.050 is hereby amended to read as follows:

581.050 *1.* The National Institute of Standards and Technology Handbook 133 is hereby adopted by reference as the official procedure for the methods of checking the net contents of packaged commodities for compliance with respect to net weight, count [,] or measure. This publication, including supplements, is available for inspection at the office of Weights and Measures, Division of Agriculture, 2150 Frazer Street, Sparks, Nevada 89431, or may be purchased from the National Conference [of] on Weights and Measures, P.O. Box 4025, Gaithersburg, Maryland 20885, for the price of [\$23.50.] \$26.

2. A violation of a provision of the handbook adopted by reference in subsection 1 shall be deemed a violation of this section and the state sealer of weights and measures will impose:

- (a) For the first violation, an administrative fine of \$25;*
- (b) For the second violation, an administrative fine of \$50; and*

(c) For the third and each subsequent violation, an administrative fine of \$100.

Sec. 8. NAC 581.100 is hereby amended to read as follows:

581.100 1. In advertising the price of packaged commodities labeled with a dual quantity statement, the smaller unit of weight or measure indicated on the commodity package dual quantity label or the complete dual quantity statement may be used in conjunction with the commodity price advertisement.

2. Examples of dual quantity package labels are as follows:

NET WEIGHT 24 oz. (1 lb. 8 oz.)

NET CONTENTS 32 fl. oz. (1 quart)

3. The designation of commodity quantities associated with the commodity price advertising may be expressed in one of two manners, as follows:

(a) The complete dual quantity declaration as expressed on a package label; or

(b) The smaller unit of weight or measures indicated on the commodity package dual quantity label.

4. For a violation of this section, the state sealer of weights and measures will impose:

(a) For the first violation, an administrative fine of \$25;

(b) For the second violation, an administrative fine of \$50; and

(c) For the third and each subsequent violation, an administrative fine of \$100.

Sec. 9. NAC 581.200 is hereby amended to read as follows:

581.200 1. The following are tests and services for which fees will be charged:

(a) An annual test of **[any]** a commercial device.

(b) A retest of a device which was marked “out of order” during **[any]** a test.

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

(d) A test requested for a device if a special trip is required to perform the test. If, upon the arrival of the weights and measures, the test scheduled for the device cannot be performed for any reason which is not the fault of the division, any fee which would have been charged for that test remains due.

(e) A test requested for a noncommercial device.

(f) A calibration according to industrial standards of weights and measures.

(g) An adjustment of a commercial device immediately following a determination of noncompliance during an annual test.

2. A special test fee will be charged pursuant to NAC 581.210 and 581.220 for **[any]** *a* commercial device for which an annual fee has not been paid by the annual inspection date.

3. The fees for annual tests of devices are as follows:

(a) For scale devices:

500 pounds and under	\$11
Over 500 pounds through 2,000 pounds	29
Over 2,000 pounds through 5,000 pounds.....	65
Over 5,000 pounds.....	80
Hopper, 5,000 pounds and under	110
Hopper, over 5,000 pounds	150
Livestock or vehicle scale, 40,000 pounds and under	45
Livestock or vehicle scale, over 40,000 pounds.....	100

(b) For linear devices 12

(c) For meter devices:

Dispenser, hose, meter [.] or octane grade tested with a 5-gallon prover..... 9

Dispenser tested with a prover larger than 5 gallons 60

Truck- or rack-mounted meter, rated to a maximum capacity of up to
120 gallons per minute 60

Truck- or rack-mounted meter, rated to a maximum capacity of over 120
gallons per minute 90

Nontemperature-compensated meter used to measure liquid petroleum gas 60

Temperature-compensated meter used to measure liquid petroleum gas 90

4. 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 and the state sealer of weights and measures will impose:

- (a) For the first violation, an administrative fine of \$25;*
- (b) For the second violation, an administrative fine of \$50; and*
- (c) For the third and each subsequent violation, an administrative fine of \$100.*

Sec. 10. NAC 581.210 is hereby amended to read as follows:

581.210 *1.* The fees for tests of devices other than the annual tests are as follows:

[1.] (a) For scale devices:

500 pounds and under \$16

Over 500 pounds through 2,000 pounds 35

Over 2,000 pounds through 5,000 pounds 85

Over 5,000 pounds	117
Hopper, 5,000 pounds and under	135
Hopper, over 5,000 pounds	195
Livestock or vehicle scale, 40,000 pounds and under	130
Livestock or vehicle scale, over 40,000 pounds	160
[2.] (b) For linear devices	12
[3.] (c) For meter devices:	
Dispenser, hose, meter [.] or octane grade tested with a 5-gallon prover	17
Dispenser tested with a prover larger than 5 gallons	80
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute	80
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute	130
Nontemperature-compensated meter used to measure liquid petroleum gas	80
Temperature-compensated meter used to measure liquid petroleum gas	130
[4.] (d) For standards of mass, volume [.] or length, per hour	20

2. 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 and the state sealer of weights and measures will impose:

- (a) For the first violation, an administrative fine of \$25;*
- (b) For the second violation, an administrative fine of \$50; and*

(c) For the third and each subsequent violation, an administrative fine of \$100.

Sec. 11. 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 a special test except as otherwise provided in this section:

- (a) For each hour for testing a device above the time normally required to perform that test \$20.00
- (b) For each hour for witnessing the test of a device that is not conducted by the division 20.00
- (c) For mileage, per mile for:
 - Pickup truck..... 0.40
 - Livestock test truck 0.50
 - Petroleum prover truck 0.50
 - Motor truck and hopper test truck 1.00
- (d) For each hour of required travel of the inspector, in addition to the fees specified in paragraph (c) 20.00
- (e) For the per diem of the inspector, the amounts currently 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 of devices in the same area if all the devices can be tested 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 [inspector's] 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 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 and the state sealer of weights and measures will impose:

(a) For the first violation, an administrative fine of \$25;

(b) For the second violation, an administrative fine of \$50; and

(c) For the third and each subsequent violation, an administrative fine of \$100.

Sec. 12. 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 [any] 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 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) Passes tests for tolerance or, if it fails these tests, has been repaired subsequently, as required by NRS 581.090.

3. *For a violation of this section, the state sealer of weights and measures will impose:*

(a) For the first violation, an administrative fine of \$25;

(b) For the second violation, an administrative fine of \$50; and

(c) For the third and each subsequent violation, an administrative fine of \$100.

4. 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.