

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

LCB File No. R172-18

August 30, 2018

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

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

A REGULATION relating to devices; revising certain fees charged by the Division of Consumer Equitability of the State Department of Agriculture for testing and licensing certain weighing or measuring devices; imposing a late fee for certain payments due to the Division; revising the period during which a license to use a weighing or measuring device as commercial weighing and measuring equipment is valid; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law designates the Director of the State Department of Agriculture as the ex officio State Sealer of Consumer Equitability. (NRS 581.030) The State Sealer is required to inspect and test certain commercial weights and measures and is authorized to establish a schedule of fees for such tests. (NRS 581.067, 581.075) **Section 1** of this regulation defines certain terms used in conducting such tests. **Section 2** of this regulation revises the fees charged for the testing of certain scale devices, linear devices and meter devices. **Section 3** of this regulation revises the fees charged for travel to and time spent on various tests of such devices. **Sections 2 and 3** also impose a late fee equal to 10 percent of the underlying fee if the underlying fee is not paid by its due date.

Existing regulations prohibit use of any weighing or measuring device as a commercial weighing and measuring device unless the Division of Consumer Equitability of the State Department of Agriculture has issued a license for the device. (NAC 581.275) The State Sealer of Consumer Equitability is authorized in existing law to establish an annual fee for such a license. (NRS 581.075) **Sections 4 and 5** of this regulation revise the period during which such a license is valid. **Section 6** of this regulation revises the fee for annual licensing of a device and reduces the amount of a late fee that may be charged.

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. *“Class II, Echelon II weight kit” means a weight kit used by the Division in accordance with the specifications for such a weight kit set forth in the National Institute of Standards and Technology Handbook 44, adopted by reference in NAC 581.011, and any other applicable handbook of the National Institute of Standards and Technology, including, without limitation, the National Institute of Standards and Technology 105-Series Handbooks and Training Materials, adopted by reference in NAC 581.009.*

2. *“Class F, Echelon III weight kit” means a weight kit used by the Division in accordance with the specifications for such a weight kit set forth in the National Institute of Standards and Technology 105-Series Handbooks and Training Materials, adopted by reference in NAC 581.009, and any other applicable handbook of the National Institute of Standards and Technology, including, without limitation, the National Institute of Standards and Technology Handbook 44, adopted by reference in NAC 581.011.*

3. “Department” means the State Department of Agriculture.

~~2.~~ 4. “Division” means the Division of Consumer Equitability of the Department.

Sec. 2. 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:

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

(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~~ a test ~~+~~ *conducted by the Division.*

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

(a) For scale devices:

500 pounds and under <i>tested with a Class F, Echelon III weight kit</i>	+\$25 \$32
<i>500 pounds and under tested with a Class II, Echelon II weight kit</i>	45
Over 500 pounds through 2,000 pounds.....	+\$50 90
Over 2,000 pounds through 5,000 pounds.....	+\$100 240
Over 5,000 pounds <i>through 30,000 pounds</i>	+\$160 420
<i>Over 30,000 pounds</i>	450

Hopper, 5,000 pounds and under.....	{300} 600
Hopper, over 5,000 pounds	{350} 75
{Livestock or vehicle scale, 40,000 pounds and under.....}	130
{Livestock or vehicle scale, over 40,000 pounds.....}	200
(b) For linear devices	{25} 42
(c) For meter devices:	
Dispenser, hose, meter or octane grade tested with a 5-gallon prover	{25} 30
Dispenser tested with a prover larger than 5 gallons.....	{95} 222
Truck- or rack-mounted meter, rated to a maximum capacity of up to	
120 gallons per minute.....	{95} 222
Truck- or rack-mounted meter, rated to a maximum capacity of over	
120 gallons per minute.....	{160} 420
Nontemperature-compensated meter used to measure liquid	
petroleum gas.....	{100} 222
Temperature-compensated meter used to measure liquid petroleum	
gas	{200} 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.....	75
For certification of standards for use in testing a noncommercial	
device.....	95

(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. Failure to pay a fee required pursuant to this section ~~within~~ *by the due date indicated on the bill, which must not be less than* 30 days after ~~receipt of~~ the bill ~~for the fee~~ *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.~~

Sec. 3. 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..... ~~[\$40]~~ *\$60*

(b) For each hour for witnessing the test of a device that is not conducted

by the Division ~~[40]~~ *60*

(c) For mileage, per mile for:

Pickup truck 1

~~[Livestock test truck 2]~~

Petroleum prover truck ~~[2]~~ *3*

~~[Motor truck and hopper test]~~ *Test truck for scale devices over 2,000 pounds* ~~[3]~~ *4*

(d) For each hour of required travel of the inspector, in addition to the fees specified in paragraph (c).....~~40~~ 60

(e) 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 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 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 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~~ *by the due date indicated on the bill for the fee, which must be not less than* 30 days after ~~receipt of~~ the bill ~~for the fee~~ *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.~~*

Sec. 4. NAC 581.280 is hereby amended to read as follows:

581.280 1. To obtain a license to use a weighing or measuring device as commercial weighing and measuring equipment, an applicant must provide to the Division information concerning the device, including:

- (a) The date on which the device was purchased or installed;
- (b) The manufacturer and model or type of the device;
- (c) The address where the device is located; and
- (d) The name of the person who installed the device.

2. Except as otherwise provided in this section, upon receiving the information pursuant to subsection 1 about a weighing or measuring device, the Division will, as soon as practicable, inspect the device. If the Division determines that the device meets all the applicable standards and the applicant has paid the applicable fees, the Division will issue a license for the device to be used as commercial weighing and measuring equipment.

3. The Division may waive the initial inspection of a weighing or measuring device required pursuant to subsection 2 if the Division determines that the device was adjusted after installation by a person who is registered with the Division pursuant to NRS 581.103 to adjust such a device. If the Division waives the initial test, the Division will:

- (a) Immediately issue a license for the weighing or measuring device to be used as commercial weighing and measuring equipment; and
- (b) As soon as practicable thereafter, inspect the device to ensure that it meets all the applicable standards.

4. If a weighing or measuring device fails an inspection conducted pursuant to subsection 3, the Division will immediately suspend the license issued for the device. If, during the period for which the license was issued, the device:

(a) Passes an inspection conducted by the Division, the Division will reinstate the license.

(b) Fails to pass an inspection conducted by the Division, the Division may revoke the license.

5. A license issued for a weighing or measuring device to be used as commercial weighing and measuring equipment is valid from ~~October~~ *September* 1 or the date on which it is issued, whichever is later, until the next following ~~September 30~~ *August 31*.

6. If a weighing or measuring device used as commercial weighing and measuring equipment was approved by the Department for use on or after July 1, 2003, but before January 27, 2004, a license shall be deemed to have been issued for the device by the Division pursuant to this section, effective on the date on which the device was approved for commercial use.

Sec. 5. NAC 581.285 is hereby amended to read as follows:

581.285 1. On or before ~~August 1~~ *July 10* of each year, the Division will send a notice of renewal for each license then in force that has been issued by the Division for a weighing or measuring device to be used as commercial weighing and measuring equipment. If a license that is suspended as of the date the Division sends the notices of renewal is subsequently reinstated, the Division will, at the time of the reinstatement of the license, provide a notice of renewal to the holder of the license.

2. The notice of renewal must include the amount of the renewal fee which must be paid on or before ~~September 30~~ **August 31** of that year. If the renewal fee is paid timely, the Division will:

(a) Renew the license for the weighing or measuring device to be used as commercial weighing and measuring equipment; and

(b) As soon as practicable thereafter, inspect the device to ensure that the device continues to meet all the applicable standards.

3. If, at the inspection conducted pursuant to subsection 2, a weighing and measuring device fails to meet the applicable standards, the Division will immediately suspend the license issued for the device to be used as commercial weighing and measuring equipment. If, during the period for which the renewal was issued, the device:

(a) Passes an inspection conducted by the Division, the Division will reinstate the license.

(b) Fails to pass an inspection conducted by the Division, the Division may revoke the license.

Sec. 6. NAC 581.295 is hereby amended to read as follows:

581.295 1. The fee for the annual licensing of a device is:

(a) For scale devices:

500 pounds and under <i>tested with a Class F, Echelon III weight kit</i>	11 22
<i>500 pounds and under tested with a Class II, Echelon II weight kit</i>	35
Over 500 pounds through 2,000 pounds.....	30 60
Over 2,000 pounds through 5,000 pounds.....	80 160

Over 5,000 pounds <i>through 30,000 pounds</i>	{140} 280
<i>Over 30,000 pounds</i>	300
Hopper, 5,000 pounds and under.....	{200} 400
Hopper, over 5,000 pounds	{250} 500
{Livestock or vehicle scale, 40,000 pounds and under}	100
{Livestock or vehicle scale, over 40,000 pounds}	150}
(b) For linear devices	{15} 30
(c) For meter devices:	
Dispenser, hose, meter or octane grade tested with a 5-gallon prover	{10} 20
Dispenser tested with a prover larger than 5 gallons.....	{75} 150
Truck- or rack-mounted meter, rated to a maximum capacity of not more than 120 gallons per minute	{75} 150
Truck- or rack-mounted meter, rated to a maximum capacity of more than 120 gallons per minute.....	{140} 280
Nontemperature-compensated meter used to measure liquid petroleum gas.....	{75} 135
Temperature-compensated meter used to measure liquid petroleum gas	{150} 270

2. Failure to pay a fee required pursuant to this section ~~{within}~~ *by the due date indicated on the bill for the fee, which must not be less than* 30 days after ~~{receipt of}~~ the bill ~~{for the fee}~~ *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 ~~50~~ 10 percent of the amount of the fee that is paid late.

Sec. 7. Notwithstanding the amendatory provisions of sections 4 and 5 of this regulation, a license to use a weighing or measuring device as commercial weighing and measuring equipment which is issued before the effective date of this regulation remains valid for the period for which the license was issued, if the holder of the license otherwise remains qualified to hold the license during that period.