



# Public Service Commission

## State of North Dakota

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### MEMORANDUM

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**TO:** Steve Strege, ND Grain Dealers Association  
Bulkweigher Operators  
Blue Flint Ethanol  
Red Trail Energy

**FROM:** Kevin Hanson, State Metrologist/Assistant Director  
Testing & Safety Division

**DATE:** July 20, 2007

**RE:** 2007 Administrative Rule Proposals

The Commission is in the process of drafting updates and changes to the Administrative Rules. We are only in the drafting stage and have not yet made any of these formal proposed rules. Most of the changes are administrative and have no real impact, with the exception of the two changes listed below. These two changes will have an impact on your industry. We hope to get your input on these drafts before we write our formal proposed rules. Consequently, we are attaching a copy of the rule drafts for your review and comments.

The proposed new design rule for hopper scales (N.D. Admin Code section 69-10-02-26) is intended to mitigate risk management safety issues by ensuring personnel safety and preventing damage to the device. Hopper scales are continually getting larger and requiring more test weight, better access, and in most cases, designated areas fabricated on the device to handle the heavier test weights. Currently, we rely on our inspector's judgment to decide whether or not the hopper needs these modifications to be safely tested. The test weight requirement in NIST Handbook 44 requires weights and measures inspectors to use no less than 12.5% of the device capacity in test weight and to accomplish this without violating risk management safety requirements.

The changes to the adequate standards rule (N.D. Admin Code section 69-10-03-02) are just for clarification, except for the change to automatic bulk weighing systems with integral test weights. The rule is proposing a five year recertification interval for these standards since traceability is an ongoing requirement, not a onetime event. This change is proposed in order to comply with the state requirement that all standards used to certify commercial devices are traceable to the National Institute of Standards and Technology (NIST). It is also a requirement that a copy of the certificate of traceability be filed with the Commission. All jurisdictional standards used in the state currently meet this requirement except for these test weights.

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Usually statistical data obtained from the recertification of standards is evaluated and then used to choose an appropriate recertification interval. In North Dakota we have been on the honor system regarding bulkweigher standards and we expected these standards to be brought in regularly by bulkweigher operators on their own accord, but that is not happening. Therefore, in order to ensure compliance and provide up front notice to those using these standards, we are proposing an administrative rule to set an interval. With no real bulkweigher test data to support any specific recertification interval, we decided to start with a five year interval. The Federal Grain Inspection Service (FGIS) bulkweigher standards are under a three year recertification interval, which we feel would be overly burdensome to the grain dealers. We think five years is a more appropriate starting point.

We would appreciate your comments by August 3, 2007. Also, we would appreciate receiving cost estimates from those operators that have recently had their bulkweigher test weights taken down, recertified, and then reinstalled after recertification. The cost estimates for this service will help us evaluate the impact this rule change may create.

I can be contacted at 701-328-3337 or [kjhanson@nd.gov](mailto:kjhanson@nd.gov).

We look forward to your input. Thank you.

c: Alan Moch, Director  
Testing & Safety Division

69-10-02-26. Hoppers Scale Design Requirements. The owner of a commercial hopper scale must provide brackets or lifting arms able to utilize a hand operated chain hoist that will facilitate testing with 500 lb or larger test weights. The brackets or lifting arms must be of sufficient strength for the intended load and permanently and legible marked with a maximum load rating.

All commercial hopper scales, newly constructed and placed into service after January 1, 2008, must have a minimum of three feet of unobstructed clearance on all four sides to facilitate testing with large weights.

Notwithstanding the above, automatic bulk-weighing systems with integral standards, overhead hopper scales accessible underneath, and hopper scales with capacities of 5,000 lbs. or less, are exempt from this requirement.

*Summary: The first section of this newly proposed rule provides for design requirements to safely aid testing for existing hopper scales. Because of the large capacity of commercial hopper scales currently in service and with the capacities of new ones increasing every year the old test method involving the stacking or hanging of individual 50 lb weights is no longer acceptable. Our large scale inspectors need these modifications so that these devices may be safely tested using adequate test weight. The second section provides for adequate clearance to facilitate testing with large test weights on newly installed hopper scales. The third section sets forth exemptions of this rule.*

### **Amendments to CHAPTER 69-10-03:**

~~69-10-03-02. Adequate standards. Only standards annually certified by the commission may be used to certify commercial weighing and measuring devices. However, standards annually certified by any national institute of standards and technology accredited laboratory may be used if a legible copy of the certification is first filed with the commission. Annual recertification is subject to the following exceptions and conditions:~~

- ~~1. The twelve-month recertification period may be extended after consultation with the state metrologist, but not to exceed fifteen months.~~

~~2. The standard weights or "test weights" used in a commercial automatic bulk-weighing system must initially be certified by the commission or by another national institute of standards and technology accredited state laboratory.~~

~~3. The volumetric provers used to certify loading rack meters must initially be certified by the commission or by another national institute of standards and technology accredited state laboratory, and at least once every three years thereafter.~~

~~4. The commission may require recertification of the "test weights" described in subsection 2, and the volumetric provers described in subsection 3 if, upon inspection, physical condition indicates a need.~~

~~5. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.~~

~~6. The commission may test and inspect any commercial LPG meters by using a certified master meter that has a flow rate of twelve to sixty gallons [45.4 to 227.1 liters] per minute at 0.02 percent accuracy, and has an orifice size of one and one-half inches [38.1 millimeters]. A master meter must be tested and certified quarterly with a prover traceable to national institute of standards and technology.~~

All standards must be certified as traceable by the commission's national institute of standards and technology (NIST) recognized laboratory or by any national institute of standards and technology (NIST) recognized laboratory and then recertified annually thereafter, before they may be used to certify any commercial weighing and measuring device. The twelve-month recertification period may be extended after consultation with the state metrologist, but not to exceed fifteen months.

An up to date legible copy of any certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards or "test weights" integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a national institute of standards and technology (NIST) recognized laboratory at least once every five years.

2. The volumetric provers used to certify loading-rack meters must be certified traceable by a national institute of standards and technology (NIST) recognized laboratory at least once every three years.

3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.

4. The use of master meters as standards to certify commercial LPG devices is forbidden.

5. Notwithstanding any of the above, the commission may require recertification of any standard if upon inspection physical condition indicates a need.

*Summary: The proposed amendments to this rule do the following: reorganize the existing rule and make administrative additions and deletions to correct and clarify the rule; replace the word "accredited" with the word "recognized" so that ALL NIST labs, no matter what their echelon status are allowed; clarifies that an up to date copy of the metrology certificate of traceability for all standards be on file with the commission; changes the requirement for the recertification of bulk weigher standards to once every 5 years; disallows the use of LPG master meters as testing standards; and modifies the rule to allow that any standard may be recertified sooner if inspection shows a need..*