

# Administrative and General Requirements

## New York State Weights and Measures Regulations 1 NYCRR Part 220 Issued June 16, 2015

Statutory Authority: Agriculture and Markets Law §§ 16, 18 and 179

**Note: Rules adopted in 1 NYCRR Part 224 have superseded sections of these regulations. Sections printed in ~~strikeout~~ text should no longer be enforced. Refer instead to the appropriate section in Part 224.**

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### Section 220.1 Type Approval

- (a) Except as provided in subdivision (d) of this section, no person shall sell or use a commercial weighing [and] or measuring device in the State of New York unless the device is approved by the Commissioner of Agriculture and Markets. The commissioner shall grant approval if, after examining a representative sample of the design or pattern of the device, he or she determines that it conforms to the requirements set forth in section 220.2 of this Part. The commissioner may accept a certificate of conformance issued for such device pursuant to the National Type Evaluation Program, by the National Conference on Weights and Measures, as proof of conformance in lieu of such examination.
- (b) Any change or modification in such approved device that may affect its performance or otherwise result in a departure from the requirements set forth in section 220.2 of this Part must be approved by the commissioner before sale or use in this State.
- (c) When the commissioner has approved the device, such approval shall be accepted by all local jurisdictions and no other approval shall be required or permitted. A certificate of approval may be revoked by the commissioner at any time if the device fails to meet performance or other technical requirements set forth in section 220.2 of this Part.
- (d) Notwithstanding the provisions of subdivisions (a) through (c) of this section to the contrary, a device of the type referred to in this subdivision may be sold and/or used without having been approved by the commissioner.

Device Type	Handbook 44 Code Reference
Weights	Section 2.23.
Liquid Measures	Section 4.41.

Farm Milk Tanks	Section 4.42.
Measure Containers	Section 4.43.
Dry Measures	Section 4.45.
Berry Baskets and Boxes	Section 4.46.
Wire-and Cordage-Measuring Devices	Section 5.51.
Linear Measures	Section 5.52.
Odometers	Section 5.53.
Timing Devices	Section 5.55.

**Section 220.2 Specifications and tolerances**

(a) Except as otherwise provided in this Part, the specifications, tolerances and regulations for commercial weighing and measuring devices shall be those adopted by the 98<sup>th</sup> National Conference on Weights and Measures 2013 as published in the National Institute of Standards and Technology Handbook 44, 2014 edition. This document is available from the National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, NE 68508, or the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is available for public inspection and copying in the office of the Director of Weights and Measures, Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, or in the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, New York 12231.

(b) Scales used in the sale of delicatessen products may continue to compute, display and record prices in terms of fractions of a pound.

(c) Printers used in conjunction with taxi meters shall, in addition to meeting the specifications and tolerances published in the National Bureau of Standards Handbook 44, meet the following requirements:

- (1) have a casing made of a hard impenetrable material;
- (2) be capable of operating within a temperature range of -30 C (-22 F) and 50 C (122 F);
- (3) be capable of printing a receipt indicating the date, time, fare and extras;
- (4) be capable of printing a minimum of five numerals and any necessary decimals;
- (5) be capable of printing and releasing a receipt within ten seconds;
- (6) be capable of automatically making the taxi meter display inoperable when printer paper is not available in the printer;
- (7) if physically separate from the taximeter itself, be capable of interfacing with and recording information from an approved taxi meter;
- (8) if physically separate from the taxi meter itself, be capable of having all connections between the printer and the taxi meter sealed.
- (9) if physically separate from the taxi meter, have model and serial numbers appear on the face of the printer; and
- (10) if an adjustment can be made to any component affecting the performance of the printer, then provision shall be made for applying a seal in a manner which requires the seal to be broken before an adjustment can be made.

(d) A digital scale in class III with a division size greater than five grams (0.01 pound) shall have a minimum of 2,000 scale divisions.

(e) Scales used by stockyard owners, market agencies, dealers, packers and live poultry dealers or handlers to weigh livestock or live poultry for the purpose of purchase, sale, acquisition or settlement shall be equipped with a printing device which shall be capable of being used for recording weight values on a scale ticket or other document used for this purpose.

(f) Gasoline dispensing and measuring device vapor recovery systems shall meet and be subject to the following requirements and test procedures:

(1) Such systems shall have a primary nozzle shut-off, automatic in operation, to stop liquid flow when the liquid level reaches the delivery nozzle.

(2) Such systems shall have an effective means to prevent the recirculation of liquid through the vapor return line, including, but not limited to a secondary shut-off device.

(3) Such systems shall include a recirculation prevention device which shall shut off the flow of liquid prior to permitting the passage of liquid through the vapor return line in excess of 0.3 gallon.

(4) Assist systems shall operate at the vacuum level recommended by the manufacturer but not at more than 10 inches H<sub>2</sub>O vacuum as measured at the nozzle during delivery

(5) Such systems shall operate without the failure of any component between an ambient temperature of 0 °F and 105 °F.

(6) The following type approval test procedures and tolerances shall apply to all such vapor recovery systems:

(i) The test to determine the acceptability of an individual nozzle shall be conducted utilizing a closed test unit.

(ii) The test procedure for primary shut-off shall positively demonstrate proper initial automatic shut-off and a failure to override such shut-off in ten (10) consecutive attempts made as rapidly as the nozzle permits. For nozzles that will allow a tight seal with the vehicle fill opening, the ten attempts to override shall not increase the amount indicated by the dispensing and measuring device by more than 1/10 gallon. This test shall be performed on at least six (6) representative nozzles and shall be repeated at least ten (10) times on each such nozzle.

(iii) The test procedure for secondary shut-off (if so provided) shall positively demonstrate nozzle shut-off when an attempt is made to dispense liquid into a closed test unit. Prior to an attempt to dispense liquid, the vapor return line shall be filled with sufficient liquid to activate the secondary shut-off device. The end of the nozzle must be inserted into the opening of an empty test unit with care so that the liquid does not drain back into storage. This test must be performed on at least six nozzles and shall be repeated at least ten (10) times on each such nozzle.

(iv) Prior to a delivery accuracy test, the dispensing and measuring device must be adjusted as close as practicable to zero and within the acceptance tolerance for the device.

(v) Compliance with delivery tolerance requirements shall be based on observations of refueling of at least 300 vehicles under conditions representative of the anticipated range of actual field use.

(vi) Test procedures to determine compliance with delivery tolerance requirements shall include the observation of refueling operations with a liquid trap in the vapor return hose so that all liquid entering the hose can be collected and measured. Trap placement and tester actions shall be such as to produce the least possible change from normal operations. The trap shall be installed at the outlet end of the vapor hose and outside of the dispenser. The vapor return hose shall be drained into the trap after each refueling. The delivery tolerance tests shall be performed on various sizes of passenger vehicles, vans and trucks and shall utilize varied fuel delivery rates, hold-open clip and self-service modes, complete and partial fills, fuel types

and nozzle orientations. A system shall be rejected if there is a failure during any one individual delivery to meet the 0.2 percent tolerance set forth at subparagraph (viii) of paragraph (6) of this subdivision.

(vii) The test procedure to determine compliance with the limits of vacuum on assist system shall include an appropriate gauge, pressure transducer or indicator installed at the nozzle. When the system is operated it must function within the limits specified by this subdivision.

(viii) In a vapor recovery systems test the quantity of measured product entering the vapor return line during a delivery shall not exceed 0.2 percent of the total fuel delivered during any one individual delivery and 0.02 percent of the total fuel delivered to the 300 or more vehicles fueled during the test period.

(ix) The Commissioner may accept the test results from any other jurisdiction with at least five (5) year's experience testing such systems so long as the procedures and tolerances used are at least as strict as those set forth in this subdivision.

(7) The following field compliance test procedures and tolerances shall apply to all such vapor recovery systems:

(i) The nozzle shall be inserted into the fill opening of the vehicle tank or test unit in accordance with the instructions on the device, if any, and common public usage.

(ii) A primary shut-off shall occur when the nozzle is contacted by the liquid with the dispenser operating at any discharge rate but not less than the minimum rate allowed by the hold-open clip, if any, or three gallons per minute, whichever is less.

(iii) After an original liquid activated (primary) shut-off and with the nozzle outlet immersed in liquid, six additional attempts to activate the nozzle shall be made as rapidly as the installation permits. For nozzles that will allow a tight seal with the vehicle fill opening, the six additional attempts to override the nozzle shall not increase the amount indicated by the dispenser by more than a total of 1/10 gallon. The 1/10 limit does not apply to vehicle tests.

(iv) If the system is equipped with a secondary pressure activated shut-off, 1/10 gallon of fuel shall be poured into the vapor hose while as much of the hose as permitted by the installation shall be placed lower than the nozzle. The nozzle shall be placed rapidly into the empty test unit or a vehicle tank that is within three gallons of being full including the fill inlet. Automatic shut-off must occur when the nozzle is activated.

**220.3 Schedules of maximum fees permitted for inspection**

(a) The following fee schedule sets forth the maximum amounts that municipal directors of weights and measures in municipalities having a population of less than two million inhabitants may collect for each inspection\* (or reinspection after repair) and each testing (or retesting after repair) of all weights and measures, weighing and measuring devices and systems and related accessories within their jurisdictions.

SECTION 220.3a FEE DESCRIPTION	PRICE \$
<b>(1) Scales</b>	
(i) Up to and including 15 kg (33 lb) capacity	
(a) for each of the first five scales per establishment	20
(b) for each scale per establishment after the first five	10
(ii) Over 15 kg and including 300 kg (661 lb) capacity	40
(iii) Over 300 kg and including 1,500 kg (3,307 lb) capacity	100
(iv) Over 1,500 kg and including 7,000 kg (15,432 lb) capacity	140
(v) Over 7,000 kg and including 23,000 kg (50,706 lb) capacity	160
(vi) Over 23,000 kg capacity	200
(vii) Tank, batch and crane scales	200

<b>(2) Weights--field standard (Class F)</b>	
(i) Up to and including 3 kg (7 lb)	8
(ii) Over 3 kg and including 30 kg (66 lb)	16
(iii) Over 30 kg and including 300 kg (661 lb)	32
(iv) Over 300 kg and including 1,200 kg (2,646 lb)	60
<b>(3) Linear field measures</b>	
(i) Up to 1 m (39 in)	4
(ii) Over 1 m and including 16 m (52 ft)	8
(iii) Over 16 m and including 31 m (102 ft)	12
(iv) Over 31 m	20
(v) Fabric measuring devices	20
(vi) Wire and cordage measuring devices	40
<b>(4) Liquid measures and devices</b>	
(i) Liquid measures 20 L (5 gal) or less	8
(ii) Liquid pump (hand-operated) 20 L (5 gal) or less	20
<b>(5) Petroleum dispensing and measuring devices</b>	
(i) Single dispensing pump	20
(ii) Dual dispensing pump	40
(iii) Blend dispensing pump	40
(iv) Grease and oil pump	8
<b>(6) Vehicles</b>	
(i) Metering systems 300 L/min (79 gpm) or less	100
(ii) Metering systems over 300 L/min	120
(iii) Compartment calibration:	
(a) Up to and including 3,000 L (793 gal) capacity	40
(b) Over 3,000 L and including 6,000 L (1,585 gal) capacity	80
(c) Over 6,000 L and including 12,000 L (3,170 gal) capacity	120
(d) Over 12,000 L capacity	240
<b>(7) Stationary petroleum metering systems</b>	
(i) Up to 400 L/min (106 gpm)	100
(ii) Over 400 L/min including 2,000 L/min (528 gpm)	120
(iii) Over 2,000 L/min and including 4,000 L/min (1,057 gpm)	140
(iv) Over 4,000 L/min	160
<b>(8) Bulk milk tanks</b>	
(i) Up to 3,000 L (793 gal) capacity	40
(ii) Over 3,000 L and including 6,000 L (1,585 gal) capacity	80
(iii) Over 6,000 L and including 12,000 L (3,170 gal) capacity	120
(iv) Over 12,000 L capacity	240
<b>(9) Timing devices</b>	
(i) All commercially used devices where time is a basis for charge except for:	4
(ii) Devices owned or operated by governmental agencies	No Charge
<b>(10) Taxi meters</b>	40

\* See paragraph (e)(1) of this section pertaining to annual fees

(b) The following fee schedule sets forth the maximum amounts that municipal directors of weights and measures in municipalities having a population of more than two million inhabitants may collect for each inspection\* (or reinspection after repair) and each testing (or retesting after repair) of all weights and measures, weighing and measuring devices and systems and related accessories within their jurisdictions.

<b>SECTION 220.3b FEE DESCRIPTION</b>	<b>PRICE \$</b>
<b>(1) Scales</b> (i) Up to and including 15 kg (33 lb) capacity (ii) Over 15 kg and including 300 kg (661 lb) capacity (iii) Over 300 kg and including 1,500 kg (3,307 lb) capacity (iv) Over 1,500 kg and including 7,000 kg (15,432 lb) capacity (v) Over 7,000 kg and including 23,000 kg (50,706 lb) capacity (vi) Over 23,000 kg capacity (vii) Tank, batch and crane scales	 20 40 100 140 160 200 400
<b>(2) Weight kits-field</b> (i) Up to and including 5 kg (11 lb) 5 weights or fewer (ii) Up to and including 5 kg (11 lb), 6 weights or more (iii) Over 5 kg (11 lb), 5 weights or fewer (iv) Over 5 kg (11 lb), 6 weights or more	 8 16 20 24
<b>(3) Linear field measures (meterstick, yardstick)</b> (i) Up to 1 m (39 in), 5 units or fewer (ii) Up to 1 m (39 in), 6 units or more (iii) Measuregraph (fabric measuring devices) (iv) Wire and cordage measuring devices	 4 12 24 50
<b>(4) Liquid measures and devices</b> (i) Liquid measures 20 L (5 gal) or less (ii) Liquid pump devices (hand-operated) 20 L (5 gal)	 8 20
<b>(5) Petroleum dispensing and measuring devices</b> (i) Single dispensing devices (ii) Dual dispensing devices (iii) Blend dispensing devices (iv) Grease and oil devices	 20 40 40 8
<b>(6) Vehicles</b> (i) Metering systems 300 L/min (79 gpm) or less (ii) Metering systems over 300 L/min (79 gpm) (iii) Marker check and seal-compartments (iv) Compartment calibration: (a) Up to and including 2,300 L (600 gal) capacity (b) Over 2,300 L (600 gal) and including 5,700 L (1,500 gal) capacity (c) Over 5,700 L (1,500 gal) capacity	 100 150 40  100 200 280
<b>(7) Stationary petroleum metering systems</b> (i) Up to 400 L/min (106 gpm) (ii) Over 400 L/min including 2,000 L/min (528 gpm) (iii) Over 2,000 L/min and including 4,000 L/min (1,057 gpm) (iv) Over 4,000 L/min	 100 150 150 150

<b>(8) Laboratory fees, field standards only (Class F) - Testing and Calibration</b>	
(i) Weights:	
(a) 2 kg (5 lb) or less	6
(b) Over 2 kg (5 lb) and up to and including 10 k (25 lb)	10
(c) Over 10 kg (25 lb) and up to and including 23 kg (50 lb)	10
(d) Over 23 kg (50 lb) and up to and including 227 kg (500 lb)	12
(e) Over 227 kg (500 lb)	35
(f) Weight kits up to and including 14.5 kg (32 lb) (not exceeding 26 pieces)	70
(g) Weight kits up to and including 5.5 kg (12 lb) (not exceeding 16 pieces)	40
(ii) Liquid test measures	15
(iii) Precision glassware	15
(iv) Provers:	
(a) Up to and including 400 L (106 gal)	70
(b) Over 400 L (106 gal) and including 1,325 L (350 gal)	100
(c) Over 1,325 L (350 gal)	150
(v) Linear Measures:	
(a) Up to 16 m (50 feet)	30
(b) More than 16 m (50 feet)	40
<b>(9) Timing Devices</b>	10

\*See paragraph (e)(1) of this section pertaining to annual fees.

(c) The following fee schedule sets forth the amounts that shall be charged by the State Director for each inspection and test of weighing and measuring devices not otherwise conducted by a municipality:

<b>SECTION 220.3c FEE DESCRIPTION</b>	<b>PRICE \$</b>
<b>(1) Scales</b>	
(i) From 4,500 kg (9,920 lb) and including 6,500 kg (14,330 lb)	150
(ii) Over 6,500 kg and including 22,500 kg (49,604 lb)	175
(iii) Over 22,500 kg	200
<b>(2) Liquefied petroleum gas meters</b>	
(i) Up to and including 75 liters/min (20 gal/min) flow rate	50
(ii) Over 75 liters/min flow rate	100
<b>(3) Petroleum terminal meters with flow rates in excess of 375 liters/min (99 gal/min)</b>	200

(d) The following fee schedule sets forth the amounts that may be charged by the State director for each inspection and test of weighing and measuring devices conducted upon request:

SECTION 220.3d FEE DESCRIPTION	PRICE \$
<b>(1) Portable wheel-load weighers</b>	
(i) capacity up to and including 40,000 lb (in pairs)	50
(ii) capacity over 40,000 lb and including 60,000 lb (in pairs)	100
(iii) capacity over 60,000 lb and including 80,000 lb (in pairs)	100
(iv) capacity over 80,000 lb and including 100,000 lb (in pairs)	100
<b>(2) Lottery Balls</b>	
(i) Sets up to and including 20 balls	20
(ii) Sets over 20 balls and including 60 balls	70
(iii) Sets over 60 balls	90
<b>(3) Shellfish gages (for clams, lobster, etc.)</b>	5

(e) The following regulations pertaining to the collections of fees shall apply in all jurisdictions:

- (1) A fee shall be charged once annually unless a device is ordered to be repaired and must be retested. An additional fee is permitted for that retest.
- (2) An additional fee may be charged for a retest if during the course of a year a device is found to be in error and ordered repaired.
- (3) The initial inspection fee on new or reconditioned devices shall be paid by the user.
- (4) Recalibration fee on bulk milk tanks shall be paid by the party requesting the recalibration.
- (5) All fees must be paid within 30 days, except that in municipalities having a population of more than two million inhabitants, all fees must be paid within 10 days.
- (6) No fee shall be charged when using privately owned calibrated equipment to perform any testing.
- (7) A fee may be charged when using State-owned calibrated equipment to perform any testing unless the State is assessing a fee.
- (8) No fee shall be paid directly to any weights and measures official unless authorized by the State Director of Weights and Measures on the basis of unusual conditions or hardship.
- (9) All fees shall be paid to the designated municipal fiscal officer who shall keep an accurate record and submit an annual report to the commissioner on a form prescribed by the commissioner.

**220.4 Schedule of fees for State weights and measures calibration**

The following schedule of fees shall be the amounts that may be charged for any calibration performed by State weights and measures personnel upon the standards of weights and measures of any person, firm or corporation requesting calibration services:

(a) Mass standards.

<b>SECTION 220.4a FEE DESCRIPTION</b>	<b>PRICE \$</b>
<b>(1) Calibration of field standards</b>	
(i) Test kits 1-18 weights, largest weight not exceeding 5 kg (11 lb)	45
(ii) Test kits over 18 weights, largest weight not exceeding 5 kg (11 lb)	85
(iii) Up to and including 3 kg (7 lb)	10
(iv) Over 3 kg and including 30 kg (66 lb)	15
(v) Over 30 kg and including 1,200 kg (2,646 lb)	35
<b>(2) Calibration of laboratory standards</b>	
(i) Up to and including 3 kg (7 lb)	20
(ii) Over 3 kg and including 30 kg (66 lb)	60
(iii) Over 30 kg and including 1,200 kg (2,646 lb)	45

(b) Volumetric standards.

<b>SECTION 220.4b FEE DESCRIPTION</b>	<b>PRICE \$</b>
<b>(1) Calibration of field standards</b>	
(i) Up to and including 20 L (5 gal)	15
(ii) Over 20 L and including 100 L (26 gal)	40
(iii) Over 100 L and including 1,000 L (264 gal)	90
(iv) Over 1,000 L and including 5,000 L (1,321 gal)	235
(v) Over 5,000 L	285
<b>(2) Calibration of slicker plate and laboratory standards</b>	
(i) Up to and including 4 L (1 gal)	25
(ii) Over 4 L and including 40 L (11 gal)	55
<b>(3) Calibration of LPG standards</b>	
(i) Up to and including 100 L (26 gal)	275
(ii) Over 100 L and including 400 L (106 gal)	325
(iii) Over 400 L	400

- (c) Linear standards.

SECTION 220.4c FEE DESCRIPTION	PRICE \$
<b>(1) Calibration</b> (i) Up to and including 2 m (7 ft) (ii) Over 2 m and including 16 m (52 ft) (iii) Over 16 m and including 31 m (102 ft) (iv) Over 31 m and including 61 m (200 ft)	15 30 50 70
<b>(2) Calibration</b> For each reported interval requested, add to above fee	5

- (d) For any special test requested, an hourly rate of \$75 may be charged. Estimates shall be given upon request.

(e) This fee schedule shall also apply to any local jurisdiction whose laboratory has been certified by the State Bureau of Weights and Measures and shall be the maximum permitted fees that may be charged by the local jurisdiction.

#### **220.5 Frequency of inspection and testing of devices**

The following schedule sets forth the frequency that municipal directors of weights and measures must inspect the following devices and measures.

- (a) Weighing devices. All commercially used weights and weighing devices and accessories shall be inspected and tested for accuracy at least once a year.
- (b) Petroleum dispensing devices. All commercial petroleum dispensing devices and accessories shall be inspected and tested for accuracy at least once a year.
- (c) Volumetric measures. All commercially used volumetric measures shall be inspected and checked for accuracy at least annually and shall be recalibrated at least once in every five years except for bulk milk holding tanks which shall be calibrated upon installation and shall be recalibrated upon request by either the producer or receiver or whenever the weights and measures official deems it necessary.
- (d) Linear measures and linear measuring devices. All commercially used linear measures and linear measuring devices shall be inspected and tested for accuracy at least once annually.
- (e) Timing devices. All devices where time is a basis for charge shall be inspected and tested for accuracy at least once a year.

#### **220.6 Wheel-load weighers and portable axle-load scales; records**

- (a) No device shall be approved unless it shall meet the specifications and tolerances prescribed in National Bureau of Standards Handbook 44 as adopted by the commissioner, except that the basic maintenance and basic acceptance tolerance shall be two percent of the known test load.
- (b) Whenever wheel-load weighers or portable axle-load scales are tested by the department, the Bureau of Weights and Measures shall prepare and maintain the records and prepare and issue the certificates prescribed in subdivisions (c) and (d) of this section. When two individual wheel-load weighers are marked as a pair, they shall be tested and certified as a pair, and tolerances shall be applied to the combined indications.

(c) The bureau shall record the name of the person or agency requesting such test, the serial numbers and type or model of each device tested, the date of and the result of such test and the person or persons performing such test, in a central register maintained in the bureau.

(d) In addition to the book of registry, the bureau shall prepare a certificate containing the information described in subdivision (c) of this section each time a device is tested. The original of such certificate shall be maintained in the bureau, and a duplicate original copy thereof shall be issued to the person or agency requesting such test.

(e) The bureau shall use the increasing-load test method in testing wheel-load weighers and portable axle-load scales. When using certified test weights, devices shall be verified at intervals not greater than 5,000 pounds. When using a force standard, the device shall be verified at a minimum of four test points between 7,500 pounds and capacity.

## **220.7 Farm milk tanks**

(a) Foundation. The foundation for a farm milk tank shall be constructed with due consideration of frost penetration and shall be of sufficient strength to support the fully liquid-laden tank without change of level.

(b) Head space. The distance between the top of the milk tank and the ceiling shall not be less than 36 inches. The minimum acceptable dimensions for a recessed ceiling are five feet by five feet, and the recessed area of the ceiling shall be positioned off center in such a manner that the maximum area is available for placing the test equipment. This subdivision shall apply only to farm milk tanks installed on or after March 1, 1979.

## **220.8 ~~Retail petroleum devices~~**

~~(a) All retail sales shall be from computing petroleum devices which shall be accurately marked with their deliveries in terms of either:~~

~~(1) (i) liters, decimal subdivisions of the liter;  
(ii) the selling price per liter;  
(iii) the total selling price; or~~

~~(2) (i) gallons, binary submultiples or decimal subdivisions of the gallon;  
(ii) the selling price per gallon;  
(iii) the total selling price.~~

~~This subdivision shall not apply to approved manually operated stroke pumps used for delivery of kerosene.~~

~~(b) Any digital money value indication shall be in mathematical agreement with its associated quantity indication.~~

~~(c) All retail computing petroleum devices shall be equipped with money value indications of sufficient digits to insure the accurate display of the total selling price and the price per unit of any purchase.~~

~~(d) Notwithstanding any other provision of this section, any retail computing petroleum device installed prior to June 1, 1979, and having a maximum unit price capability of \$0.999 or less, may not, if the price per gallon dispensed from said device exceeds \$0.999 or the maximum unit price capability of the device, indicate one half the total selling price and one half the price per gallon of said product, in lieu of the total selling price and price per gallon, unless a temporary exemption from the requirements of subdivision (c) of this section is obtained from the commissioner in accordance with subdivision (e) of this section, provided that all the following conditions are met:~~

~~(1) the "price per gallon" indication on the face of the retail computing petroleum device is replaced with the statement, "1/2 price per gallon" (the term one half may be expressed either as "1/2" or "one half");~~

~~(2) The "total sale" indication on the face of the retail computing petroleum devices is replaced with the statement, "1/2 total sale" (the term one half may be expressed either as "1/2" or "one half");~~

~~— (3) the replacement statements provided for in paragraphs (1) and (2) of this subdivision are printed in letters or fractions at least one inch in height and are clear, legible and conspicuous with respect to color, style and contrasting background;~~

~~— (4) a sign or placard, at least 12 inches in height and at least 12 inches in width stating clearly and legibly, with the whole cent numeral at least nine inches in height and two inches in width, the total selling price per gallon, including all Federal, State and local taxes, is placed on each retail petroleum device from which gasoline is offered for sale.~~

~~(e) A temporary exemption from the requirements set forth in subdivision (c) of this section may be granted upon a finding by the commissioner that an insufficient number of retail computing devices are available for all retail stations or other retail outlets to comply with the requirements of subdivisions (a) (c) of this section. Upon such finding, the commissioner, under such terms and conditions as he may prescribe, may grant a temporary exemption for a specified period of time to any retail station or other retail outlet which submits a written application in such form and manner as may be prescribed by the commissioner; provided, however, that any retail station or other retail outlet granted a temporary exemption in accordance with this subdivision shall comply with the requirements of subdivision (d) of this section.~~

~~(f) Custom blending pumps shall be inspected and tested for accuracy according to the procedures set forth below:~~

~~— (1) Allow 10 second drain period each time test measures is emptied. To determine proper operation of totalizers, observe and record the totalizer indications before and after all test drafts.~~

~~— (i) Test at lowest octane. Set selector control so that lowest octane product is dispensed. Normal test—full flow—basic tolerance.~~

~~If the first test is well within tolerance, proceed to (ii); otherwise repeat this test.~~

~~— (ii) Check computed price on both sides of dispenser.~~

~~— (iii) Test at highest octane. Set selector control so that highest octane product is dispensed. Normal test—full flow—basic tolerance.~~

~~If test is well within tolerance, proceed to (iv); otherwise repeat this test.~~

~~— (iv) Check computed price on both sides of dispenser.~~

~~— (v) Test at blend—set selector control at an intermediate blend. Special test—slow flow—basic tolerance.~~

~~If test is well within tolerance and the error is less than or equals the average error of the previous two tests, proceed to (vi); otherwise slow flow test at first grade above lowest octane and first grade beneath highest octane.~~

~~— (vi) Check computed price on both sides of dispenser.~~

~~— (vii) Set money value computation on other blends. Set selector control at each of the remaining blends and dispense one indicated gallon to check computed price.~~

~~(2) Any blended fuel that results from the inspection and testing of a custom blending pump shall be returned to the lowest octane storage tank feeding that custom blending pump.~~

## **220.9 — Delivery of petroleum products**

~~(a) Unless otherwise agreed to by the parties in writing, all deliveries made from a vehicle without a meter shall be delivered from compartments which have been filled to a compartment indicator by metered deliveries at the bulk plant loading rack utilizing meters calibrated and sealed in accordance with requirements of National Bureau of Standards Handbook 44. The compartment indicator, as defined and described in National Bureau of Standards Handbook 44, shall also be calibrated.~~

~~(b) Every retail dealer shall check the level of each tank before and after each delivery of product in order to ascertain the quantity of product delivered to such tank and shall keep a record of such recordings. All such records shall be safely preserved for one year in such manner as to insure their security and accessibility for inspection by weights and measures officials.~~

~~(c) Every delivery agent of the supplier shall check the level of each tank before and after each delivery of product in order to ascertain the quantity of product delivered to such tank and shall keep a record of such readings. All such records shall be safely preserved for one year in such manner as to insure their security and accessibility for inspection by weights and measures officials.~~

~~(d) In the event of any discrepancy between the supplier's delivery invoice and the dealer's records of quantity delivered, the retail dealer shall notify the supplier immediately by telephone, to be confirmed within 48 hours of the delivery in writing by certified mail or telegram, and the supplier shall resolve the matter and respond to the dealer within 30 days.~~

~~(e) Deliveries of petroleum products to a retail dealer at night or after closing hours shall be made only with prior written consent of the retail dealer.~~

## **220.10 Records and reports**

Each municipal director of weights and measures shall maintain the following records and submit the following reports in a manner prescribed by the State Director of Weights and Measures. All such records and reports shall be available for inspection and review by the Commissioner of Agriculture and Markets or his authorized agents.

(a) Annual report. A verified annual report of work completed during the year shall be made to the commissioner not later than the first day of February in the following year.

(b) Record of establishments and devices. A complete record of establishments and commercial weighing and measuring devices within the municipal jurisdiction shall be maintained.

(c) File of inspections. A file of inspection reports shall be maintained in accordance with instructions of the State director.

(d) Record of complaints. A complete record of all complaints received and results of complaints investigated shall be maintained.

(e) Records of fees collected. Where fees are charged, a complete and accurate record, by device classification, of all fees collected by the municipality shall be maintained.

(f) Civil action and penalties collected. A complete and accurate record shall be maintained of all civil actions commenced, civil penalties released, settled or compromised, and moneys collected by the municipality as a result of civil action.

**220.11 Retail Scales**

Scales used in the retail sale of the commodities listed below shall be graduated in the units listed and shall have displayed scale divisions equal to or smaller than the maximum division size. If the device is marked with a class designation, the scale shall be of the class listed.

COMMODITY	UNITS	MAXIMUM DIVISION SIZE	HANDBOOK 44 CLASS
precious gem (diamonds, rubies, etc.)	gram	.002 g	II
	carat	.01 carat	II
semi-precious gems	gram	.2 g	III
	carat	.1 carat	III
	pennyweight	.2 dwt	III
	ounce troy	.01 oz t	III
precious metals (gold, silver, etc.)	gram	.2 g	III
	pennyweight	.2 dwt	III
	ounce troy	.01 oz t	III
pharmaceuticals	gram	.01 g	III
	grain	.1 grain	III
food and food products	gram	5 g	III
	kilogram	.005 kg	III
	pound	.01 lb	III
	pound/ounce	1 oz	III
non-food/specialty items (tobacco, potpourri, etc.)	gram	5 g	III
	kilogram	.005 kg	III
	pound	.01 lb	III
	pound/ounce	1/4 oz	III

**220.12 Schedule of fees for Type Approval Examination**

The following schedule shall be the amounts that may be charged for type approval examination undertaken upon the request of any person, firm, or corporation:

(a) Laboratory Evaluation

- (1) A fee of \$75.00 per hour for examination of any device in the State laboratory.
- (2) A fee of \$100.00 for processing an application for approval when the examination has been conducted at another National Type Evaluation Program Laboratory.

(b) Field Evaluation

The following fee schedule shall apply to any type approval examination conducted away from the State laboratory:

- (1) Technician Time - \$50.00/hr
- (2) Per-diem - As computed by Method I or Method II prescribed by State Comptroller's Office. Per diem represents meal and lodging expenses incurred by state employees when conducting examination and tests in the field. Copies of method I or II can be obtained from the Department of Agriculture & Markets, Capital Plaza, One Winners Circle, Albany, NY 12235.

(3) Transportation - The manufacturer is responsible for the round trip costs of transportation for the technicians from their assigned work station to the test site. Transportation costs include airline tickets, car rental, parking, tolls, and similar costs as appropriate.

(4) Equipment Charges.

DESCRIPTION	PER DAY	PER MILE
Weight Truck	\$ 400.00	\$2.50
Prover Truck	400.00	1.50
LPG Unit	200.00	.50
Pickup Trucks	30.00	.26

### **220.13 Administrative review of condemnation, stop-use, stop-removal and removal orders**

Administrative review of condemnation, stop-use, stop removal and removal orders shall be provided and shall be available as follows:

(a) for orders issued by the Department of Agriculture and Markets, upon receipt of a written request for administrative review of such order made within five business days from issuance of the order, the Department will, within three business days from the date of receipt of the request, provide for administrative review of the order by or before an independent hearing officer of the Department of Agriculture and Markets. A written request for review shall be directed to the Director, Bureau of Weights and Measures, Department of Agriculture and Markets, Albany, New York 12235-0001.

(b) for orders issued by any local weights and measures official, review of such order may be obtained upon written request made within five business days from the date of such order directed to the local director of weights and measures. Within three business days from the date of receipt of a written request for such review, the administrative review shall be conducted by an officer designated by the appropriate municipal official, provided that the officer so designated shall not be a person responsible for administration and enforcement of the locality's weights and measures program.

All condemnation, stop-use, stop-removal and removal orders shall contain a notice that an administrative review of such order is available upon timely written request. The notice shall read substantially as follows:

#### NOTICE

YOU HAVE THE RIGHT TO ADMINISTRATIVE REVIEW OF THIS ORDER. TO OBTAIN REVIEW, SEND A WRITTEN REQUEST POSTMARKED WITHIN FIVE (5) BUSINESS DAYS FROM THE DATE OF THIS ORDER TO (insert name and address). YOUR REQUEST SHOULD SET FORTH ANY INFORMATION WHICH YOU BELIEVE SUPPORTS WITHDRAWAL OR MODIFICATION OF THE ORDER.

### **220.14 Testing Procedures for Price Verification.**

The testing procedures for pricing accuracy shall be those in the Examination Procedure for Price Verification as adopted by the 80th National Conference on Weights and Measures 1995. The Document is published in the National Institute of Standards and Technology Handbook 130, 2006 edition and in previous editions of this publication between 1996 and 2005. This document is available from the National Conference on Weights and Measures, 15245 Shady Grove Road, Rockville, MD 20850, or the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is available for public inspection and copying in the office of the Director of Weights and Measures, Department of Agriculture and Markets, 10 B Airline Drive, Albany, NY 12235, or in the office of the Department of State, 41 State Street, Albany, NY 12231.