

LEMANU P.S. MAUGA
Governor



FAINU'ULELEI FALEFATU ALA'ILIMA-UTU
Attorney General

TALAEUGA E.V. ALE
Lieutenant Governor

Office of the Attorney General
Department of Legal Affairs
American Samoa Government

ROY J.D. HALL, JR.
Deputy Attorney General

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**REVISED NOTICE OF INTENDED ACTION TO AMEND WEIGHTS AND
MEASURES RULES IN THE ADMINISTRATIVE CODE TITLE 27**

On September 14, 2023, the Department of Legal Affairs and Director of the Consumer Protection Bureau intend to amend certain rules of Title 27, Chapter 06 of the American Samoa Administrative Code to amend requirements for Inspection and Calibration Fees and add Reconditioning of Products as provided in ASAC 27.0609, 27.0610, 27.0617 and 27.0692.

A copy of the proposed amendments is available and may be picked up at the Office of the Attorney General, ask for Tuu Farani, at the A.P. Lutali Executive Office Building, Utulei Village or may be downloaded from the American Samoa Government website or the Department of Legal Affairs website. Interested persons may submit written comments on the proposed amendments to the Office of the Attorney General. Comment period has been extended to October 10, 2023.

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PROPOSED AMENDMENTS TO WEIGHTS AND MEASURES RULES

TITLE 27 AMERICAN SAMOA ADMINISTRATIVE CODE, CHAPTER 06

Pursuant to ASCA 4.1001 et seq. and ASCA 27.0605(3), the Director of the Consumer Protection Bureau proposes to amend the Weights and Measures rules set forth in Title 27, chapter 6 of the American Samoa Administrative Code (ASAC) to revise provisions regarding definitions and fees, and to add rules with respect to reconditioning of imported packages or products that enter the territory in violation of ASCA 27.0611.

The amendment and new rule are set out below. The underlined text represents the proposed new changes. Text that has been crossed out is to be removed.

AMERICAN SAMOA ADMINISTRATIVE CODE: Proposed Rule 2023-14

27.0609 Inspection -Fees

(a) For scales:

- | | |
|---|------------------------------------|
| (1) From 1 to 30 lbs. weight capacity | \$5.00 ; <u>\$20.00</u> |
| (2) Over 30 to 100 lbs. weight capacity. | 7.00 ; <u>\$10.00</u> |
| (3) Over 100 to 1,000 lbs. weight capacity | 10.00 ; <u>\$15.00</u> |
| (4) Over 1,000 to 5,000 lbs. weight capacity. | 15.00 ; <u>\$20.00</u> |
| (5) Over 5,000 to 10,000 lbs. weight capacity. | 20.00 ; <u>\$25.00</u> |
| (6) Over 10,000 to 20,000 lbs. weight capacity. | 25.00 ; <u>\$30.00</u> |
| (7) Over 20,000 lbs. weight capacity | 30.00 ; <u>\$35.00</u> |

(b) For dry or liquid measures:

- | | |
|-------------------------|----------------------------------|
| (1) Less than 1 gallon. | 1.00 ; <u>\$10.00</u> |
|-------------------------|----------------------------------|

(2) More than 1 gallon.	3.00 ; <u>\$10.00</u>
(3) Retail petroleum dispenser.	5.00 ; <u>\$10.00</u>
(4) Petroleum truck meters.	15.00 ; <u>\$20.00</u>
(5) Petroleum rack meters.	30.00 ; <u>\$35.00</u>
(6) Truck-compartment-used measures	20.00 ; <u>\$25.00</u>
(c) For linear measures:	
(1) Thirty-six-inch yardstick.	2.00 ; <u>\$10.00</u>
(2) Greater than 36-inch wooden measures	3.00 ; <u>\$10.00</u>
(3) Measuregraph	5.00 ; <u>\$10.00</u>
(4) Metal tape, 0 to 12 feet.	5.00 ; <u>\$10.00</u>
(5) Wire or rope measures.	5.00 ; <u>\$10.00</u>
(6) Odometer (rent-a-car)	6.00 ; <u>\$10.00</u>
(7) Taxicab (with meter)	6.00 <u>\$10.00</u>

27.0610 Calibration-Fees

The director may, at the owner’s request, calibrate a weight or measure device. The minimum charge shall be ~~\$20~~\$25.00; thereafter, ~~\$5~~\$10.00 per hour.

27.0617 Definitions. As used in this article:

- (1) “commodity in package form” means commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale; an individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be a commodity in package form;
- (2) “consumer package” or “package of consumer commodity” means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions;
- (3) “label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer

commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package; except, that an inspector's tag or other non-promotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this article;

(4) "multiunit package" means package containing 2 or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multiunit package but capable of being individually sold in full compliance with all requirements of this article;

(5) "non-consumer package" or "package of non-consumer commodity" means any commodity in package from other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution;

(6) "person" means both a singular and plural, and shall include any individual, partnership, company, corporation, association, and society;

(7) "principal display panel or panels" means that part, or those parts, of a label that is, or are, so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase; wherever a principal display panel appears more than once on a package, all requirements pertaining to the "principal display panel" shall pertain to all such principal display panels;

(8) "random package" means package that is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

(9) "recondition" means to bring a package or item into compliance.

Add new Section

III. Reconditioning

27.0692 Reconditioning/Relabeling

ASCA 27.0611 provides that except as otherwise provided by regulation promulgated pursuant thereto, any package kept for the purpose of sale or offered or exposed for sale must bear on the outside of the package a definite, plain and conspicuous declaration in English or Samoan of: (1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container; (2) the quantity of contents in terms of weight, measure, or count; (3) the name and place of business of the manufacturer, packer, or distributor, in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed.

1. Imported product in consumer/commodity packaging shall be inspected at the point of entry by Customs and any authorized ASG department or agency. Inspections may also be done at any place of business where such product is sold, kept, repackaged, relabeled or manufactured locally.
2. If any imported product in consumer/commodity packaging appears to violate ASCA 27.0611, the product will be detained at the port of entry or place of business in American

Samoa and immediate notification will be made to the importer of record. Generally, violated imports will be directed to be returned to the place of origin or destroyed.

3. When a product is detained at the point of entry or place of business in American Samoa, because it violates ASCA 27.0611, the importer of record may be permitted, on a case-by case basis, to submit an application letter to the Consumer Protection Bureau (CPB) requesting permission to recondition the product in an attempt to bring it into compliance. Any product in violation of ASCA 27.0611, will not be sold or put in a place where it can be sold, unless the relabeling or reconditioning is approved and product allowed to be sold.
4. For re-labeling, the importer of record shall provide, at the importer's cost, an approved translator to verify that the remedial label reflects the labeling information contained on the non-compliant packaging. The remedial label shall be compliant with ASCA 27.0611 and must be placed on the package according to the applicable requirements. Additionally, the remedial label must fully adhere to the package and be of a material that will withstand normal storage conditions for the product.
5. Reconditioning will be considered on a case-by-case basis and the Director of the Consumer Protection Bureau (DCPB) has the authority to grant or deny an application to recondition.
 - A. Steps for the reconditioning process:
 - a. Submission of a written letter application from the importer of record to the DCPB. The letter shall include:
 - i. the estimated timeframe for which the reconditioning will be completed
 - ii. a detailed summary of how the consumer/commodity packaging will be brought into compliance. If the reconditioning proposal includes new labeling, the importer of record shall include a copy of this label with the proposal and the name and credentials of the appropriate translator, paid for by the importer of record.
 - iii. Justification as to why the reconditioning should be authorized. Examples include but are not limited to: the needs of the product in the territory, safety/protection/fairness for the consumers, whether or not the same or a similar product exists with English or Samoan packaging, resources available to support reconditioning : i.e. translators, inspectors, etc.
 - iv. Hardship to the importer of record will not be a satisfactory reason for consideration for reconditioning.
 - b. The DCPB will review the adequacy of the proposed reconditioning plan. If necessary, DCPB may send the letter to a subject matter expert, at cost to the importer of record, for review and opinion as to safety and efficacy of the plan.
 - c. The proposal is reviewed and a determination is made to grant or deny the proposal.
 - d. Denial of the application letter may be made if the proposed reconditioning does not provide the reviewer with the confidence that the product will be brought into compliance. Reasons for denial may include but are not limited to:
 - i. Failure of the reconditioning application and plan to demonstrate it will correct the violation.
 - ii. Lack of information, including revised labeling, description of reconditioning process, report from translator, etc.

- iii. American Samoa statute, regulation or policy prohibit the proposed reconditioning operation. For example, reconditioning of product detained for unapproved product contents.
 - e. If the application letter and plan is denied, the DCPB will issue a Notice of Action letter indicating the denial.
- 6. If DCPB approves the reconditioning application letter and plan, the reconditioning must be completed within the specified timeframe. Once completed, the importer of record shall notify the DCPB that the products are available for examination.
- 7. Once the investigator has verified the reconditioning, and if the reconditioning is successful, the product will be released to the applicant. If the examination reveals that the reconditioning was not successful, the product will be refused and the importer of record will be required to either return the shipment product to its origin at the cost to the importer of record, or the product will be destroyed.
- 8. If the reconditioning was not successful, the DCPB may allow a second application only upon showing of compelling reasons by the importer of record. This second application will not be approved unless it contains meaningful changes in the reconditioning operation to ensure a reasonable chance at successful reconditioning. A second application will not be approved if it is merely a resubmission of the original application.