

Chapter 18

WEIGHTS & MEASURES, METROLOGY LABORATORY AND REGISTERED SERVICE TECHNICIANS



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Chapter 18

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Section 1. Authority. Pursuant to the authority provided by WYO. STAT. ANN. §§ 40-10-117 through 40-10-136, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions.

- (a) "The act" means Wyoming Statutes §§ 40-10-117 through 40-10-136.
- (b) "Department" means the Wyoming Department of Agriculture.
- (c) "Director" means the Director of the Wyoming Department of Agriculture.
- (d) "Establishment" means a place of business at a single physical location.
- (e) "Mobile establishment" means a transportable establishment which does not remain in a single physical location.
- (f) "NIST" means the National Institute of Standards and Technology.
- (g) "Premise and inspection location" means the physical location of an establishment or device that is unique by address and may be different than the address of record for management.
- (h) "Point-of-sale system" means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail.
- (i) "Special event" means a farmer's market; a local community event; a fair, exposition, or trade show; or other venues open to the public for specified limited periods of time.

Section 3. Technical requirements for weighing and measuring devices, uniform regulation for national type evaluation, and checking the net contents of packaged goods.

(a) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the 2009 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 44, "Specification, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," are adopted and shall apply to weighing and measuring devices in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of

Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(b) The Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in the 2009 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," is adopted and shall apply to type evaluation in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(c) Recognized weighing, measuring, inspection, and sampling procedures, adopted by National Conference on Weights and Measures and published in the Fourth Edition 2005 of the United States Department of Commerce National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," are adopted and shall apply to package check weighing in Wyoming.

(i) These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(d) The Department shall review the version of the above handbooks annually printed by the United States Department of Commerce National Institute of Standards and Technology and determine if this section of the rules should be amended to adopt the current version.

Section 4. Exemptions.

(a) The following are deemed appropriate to the maintenance of good commercial practices within Wyoming and exempt from the provisions of the act and these regulations.

(i) Ticket printers on vehicle tank meters. Reference: National Institute of Standards Handbook - 44 Section 3.1 Vehicle Tank Meter (VTM) code (*Ticket Printer required*).

(A) This exemption applies to meters mounted on vehicle tanks such as those used for the measurement and delivery of petroleum products; agri-chemical liquids such as fertilizers, feeds, pesticides, and defoliants; and water delivered in bulk.

(B) This exemption DOES NOT apply to the following:

(1) Devices used for dispensing Liquefied Petroleum Gases, Liquid Anhydrous Ammonia, or other liquids which do not remain in a liquid state at atmospheric pressures and temperatures.

(2) Devices used solely for dispensing a product if the amount dispensed does not affect cost to the customer.

(3) Vehicle tanks used as measures.

(4) Mass flow meters.

(ii) All delivery systems are subject to WYO. STAT. ANN. § 40-10-128;

(iii) The delivery ticket may be printed using a mechanical ticket printer on the meter, or may be handwritten in clear hand script if the system does not have a ticket printer.

(iv) All recorded representations shall show the following minimum information:

- (A) The total volume of the delivery;
- (B) The unit price;
- (C) The total computed price;
- (D) The product identity by name; and
- (E) The name, address, and phone number of the distributor.

(v) The Department will address all complaints on a case by case basis, and apply appropriate sanctions which may include, but not be limited to, revoking the exemption and requiring the immediate installation of mechanical or electronic ticket printers.

Section 5. Inspection and testing of weights and measures used commercially.

(a) Weighing and measuring devices shall be inspected and tested according to the following:

(i) Inspections in response to consumer complaints and requests for inspection shall be conducted as soon as practical following receipt.

(ii) The following establishments and devices or programs shall be inspected and tested annually:

- (A) Large Capacity Scales;
- (B) Mineral System Scales;
- (C) Livestock Scales;
- (D) Vehicle Tank Meters;
- (E) Liquefied Petroleum Gas Meters; and
- (F) Refined Fuel Loading Rack Meters.
- (G) Grain Moisture Meters

(iii) The following establishments and devices or programs shall be inspected and tested every three (3) years or more often as determined by a risk based system.

- (A) Small Capacity Scales;
- (B) Medium Capacity Scales;
- (C) Gas Pumps & Liquid Measuring Devices;
- (D) Package Check Weighing; and
- (E) Price Verification.

(1) The following parameters are established to determine the risk based system interval of inspection and testing:

(a) The Department will review the records of inspection and testing annually to determine the violation history and determine inspection intervals based on a 3 year average.

(b) The establishments and devices with a violation history falling within the upper 1/3 of all violations shall be inspected annually.

(c) The establishments and devices with a violation history falling within the middle 1/3 of all violations shall be inspected biennially.

(d) The establishments and devices with a violation history falling within the bottom 1/3 of all violations shall be inspected triennially.

(b) Exceptions:

(i) The Department shall exercise no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

(A) For a weighing device to be exempt from this section, parties must agree in writing to the use of the weighing device. Appendix A to these rules shows an example of a written agreement. Copies of the signed and dated written agreements shall be retained by the seller for a minimum of 2 years.

(c) No exception is granted to any device for transactions which are deemed to be in commerce in accordance with the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

(ii) Standards shall be inspected and tested by the Department in the Weights & Measures Laboratory, 1510 E. 5th Street, Cheyenne, WY as follows:

(A) Standards in possession and use by agencies of the state shall be inspected and tested annually.

(C) Registered service technicians shall have their standards inspected and tested biennially by the Department, and will receive certification upon payment of the laboratory fees established in these regulations.

(D) All standards that are new, recently purchased, or have been damaged must not be used prior to inspection, testing, and approval by the Department.

(E) Exceptions.

1. Standards in possession and use by service technicians and that have been inspected and tested biennially by another recognized state laboratory or an NIST accredited private laboratory are acceptable for use in Wyoming and exempt from this section.

2. Standards which are self-contained, such as coal mine hopper weights, shall be inspected and tested by the Department at a minimum of once every five (5) years.

Section 6. Registered Service Technicians.

(a) Registration of Weighing & Measuring Device Service Technicians.

(i) For the benefit of and as a convenience to the users, manufactures and distributors of weighing and measuring devices in the State of Wyoming, and those persons installing, servicing and repairing such instruments, the Department will accept applications for registration of persons qualified to install, service and repair weighing and measuring devices.

(b) Certification of Registered Service Persons / Technicians

(i) Certification shall be based on the following:

(A) Applicants must pass both a general written exam and a specialized exam in each area in which they will be doing service work;

(B) Applicants must provide evidence that they have received qualified training and appropriate experience;

(C) Applicants must provide evidence that they have the equipment required to repair and place devices into service.

(ii) Applicants shall successfully pass the general examination and the exam for each area in which they will be conducting service work with a 70% or better score. Each applicant requiring examination or re-examination shall be required to take the examination at a time and place specified by and under the direction of the Director in accordance with the conditions and provisions herein. Applicants may be certified in more than one area.

(A) Applicants shall be provided notification of the results of any examination within thirty (30) days. Failure to receive a passing score on any examination shall require that the applicant be re-examined only in categories which he failed. Re-examination shall be completed within thirty (30) days of the receipt of notification of the examination results.

(B) Any applicant who fails to obtain a passing score on two (2) successive examination attempts is required to attend a training program for new service technicians approved by the Director prior to taking any examination a third time. Documentation of additional training must be provided to the Department prior to a third or subsequent attempt to pass an exam.

(iii) Upon meeting certification requirements, applicants shall submit an application for licensing and a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable and deposited into the state general fund.

(A) The fee for Registered Service Person / Technician Certification is \$25.00.

(B) Examination fees are \$40.00 per examination.

(C) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(iv) Registered Service Technician registrations expire March 31 of each year and may be renewed on an annual basis. Any registrations not renewed by March 31 are null and void and the former holder shall meet all requirements required to obtain an original registration.

(v) Applicants who have been examined and found qualified for certification as a registered service person / technician shall be issued a license in the appropriate categories or sub categories, provided that all other requirements for certification have been fully complied with.

(vi) The Department shall allow registered service technicians to become re-certified by completion of any of the following during the valid term of their license:

(A) Attending the annual or otherwise scheduled re-certification short course;

(B) Re-examination in all applicable categories;

(C) Attendance at any National Institute of Standards and Technology, company, or other authorized training that provides a minimum of two (2) hours of classroom instruction, seminar attendance, professional study; or

(D) Completion and documentation of any relevant online coursework.

(vii) Any registered serviceperson / technician who has had his license suspended shall, prior to re-instatement, be required to take all applicable examinations and achieved a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter.

(viii) The Department shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any registered service technician license.

(ix) A certificate of registration shall be issued to any person satisfactorily passing examination and having adequate equipment to properly service and test weighing and measuring devices. The testing equipment used by a registered service technician shall be submitted to the Department for approval upon its request.

(c) A holder of a certificate of registration has authority to:

(i) Remove rejected tags and / or condemn tags placed on weighing and measuring devices by authorized weights and measures officials.

(ii) Place devices which have been previously rejected or condemned and repaired and newly installed devices (including new and used devices) in service pending an official inspection by an authorized inspector.

(A) All registered service technicians, shall use a standard Placing in Service Report approved by the Department. The registered service technician shall execute the Placing in Service Report for all devices they repair or adjust if it affects the accuracy of the device and for all devices which are newly installed (including new and used devices). A rejected or condemn tag removed from a device shall be attached to the original Placing in Service Report, and both shall be mailed to the Department of Agriculture, 2219 Carey Avenue, Cheyenne, Wyoming, 82002, within 24 hours of placing the device in service. Copies shall be left with the user of the device and the registered service technician. A device placed in service by a registered service technician shall meet all specifications, tolerances and technical requirements specified in WYO. STAT. ANN. § 40-10-120.

(iii) Each registered service technician shall have a thorough knowledge of all laws, specifications, tolerances, rules, and regulations pertaining to the weighing and measuring devices they are registered to service. A registered service technician shall not remove a reject or condemn tag or issue a Placing in Service Report unless the device meets all legal requirements.

Section 7. Testing and Inspection Fees.

(a) The Department will charge testing and inspection fees based on the following criteria:

(i) Establishments and device owners will receive one routine inspection and one follow-up inspection, if needed, at no charge.

(ii) Establishments and device owners will be charged testing and inspection fees based on the following:

(A) When 3 or more visits are made to the same location, whether by request of the device owner or manager or by repeat rejection or condemnation of the device.

(B) When arrangements have been made and the device owner or manager has been duly notified of the date and approximate time for an inspection, and the device owner or manager fails to accommodate the inspection at the specified time and place.

(iii) Testing and inspection fees are:

(A) \$20.00 per hour while in transit to and from an establishment or device site.

(B) \$30.00 per hour at the establishment or device site.

(C) Mileage in accordance with Wyo. Stat. § Ann. 9-3-103.

Section 8. Laboratory Fees.

(a) Standards will be inspected, tested and calibrated by the Department in the Weights & Measures Laboratory, 1510 E. 5th Street, Cheyenne, WY under the schedule shown in subsection (d) of this section:

(i) Requests for expedited or rush laboratory services will be charged \$50.00 in addition to the fee in subsection (d) of this section.

(ii) State of Wyoming agencies are exempt from this fee.

(b) Equipment shall be cleaned, painted, or otherwise serviced and ready for inspection, testing, and calibration upon receipt by the laboratory. \$75.00 per hour and reasonable cost for material and supplies will be charged for cleaning, painting or other services provided by the Department.

(c) Standards shall be inspected, tested and calibrated in accordance with the laboratory specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published by the United States Department of Commerce National Institute of Standards and Technology in Handbook 105 and Handbook 145. Both handbooks are available at <http://ts.nist.gov/WeightsAndMeasures/pubs.cfm>.

(d) The Wyoming Department of Agriculture Weights and Measures Metrology Laboratory participates with NIST in a comprehensive measurement assurance program and has demonstrated measurement proficiency through training and round robin participation.

(i) The processes used are identified as follows:

(A) SOP 4 = Double Substitution. Used for precision weights. Yields value and uncertainty;

(B) SOP5 = 3-1 Substitution. Used for precision weights where lower uncertainties are needed;

(C) SOP8 = Modified substitution. (tolerance testing) Used for Class F standards.

Mass Calibration		
Process Used		
SOP 4		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-5 lb	\$10.00 each	\$20.00 each
>3kg / > 5 lb	\$25.00 each	\$50.00 each
Process Used		
SOP 5		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-5 lb	\$20.00 each	\$40.00 each
>3kg / >5 lb	\$75.00 each	\$150.00 each
Process Used		
SOP 8		
Weight	Fee for In-State Customers	Fee for Out of State Customers
0-3kg / 0-9 lb	\$10.00 each	\$20.00 each
<4kg / 10 lb – 100 lb	\$15.00 each	\$30.00 each
500 lb – 3000 lb	\$25.00 each	\$50.00 each
Weight Carts	\$100.00 each	\$200.00 each

Volume Calibration		
Measure	Fee for In-State Customers	Fee for Out of State Customers
0-100 Gallon Prover	\$200.00 each	\$400.00 each
>100 Gallon Prover	\$300.00 each	\$600.00 each
5 Gallon Test Measure	\$25.00 each	\$50.00 each
Volume Flasks	\$50.00/hour	\$100.00/hour

Length Calibration		
Measure	Fee for In-State Customers	Fee for Out of State Customers
Length	\$50.00/hour	\$100.00/hour

Section 9. Establishment License Fees.

(a) Every person who owns or is responsible for a weight, measure, weighing or measuring device shall obtain an annual license for each establishment on or before April 1 from the Department and pay fees as provided in this subsection. The fees collected by the Department under this section shall be deposited in the general fund.

(i) Twenty-five dollars (\$25.00) for establishments with no more than five (5) devices;

(ii) Fifty dollars (\$50.00) for establishments with more than five (5) and fewer than eleven (11) devices;

(iii) Seventy-five dollars (\$75.00) for establishments with eleven (11) or more devices.

(iv) For special events, twenty-five dollars (\$25.00) per individual vendor shall be charged annually. A special events license is valid for the duration of the event, whether a day, week or month. The weight, measure, or device used at special events must meet the requirements in Wyoming Statutes.

(A) In lieu of individual vendor licenses, a single event management may purchase an establishment license to cover all vendors. The event management is responsible for the weight, measure, or devices used under their license which must meet the requirements in Wyoming Statutes.

(v) Exemptions.

(A) State of Wyoming agencies are exempt from the licensing fee.

(B) Pharmacy scales inspected and tested by the Wyoming State Board of Pharmacy are exempt from the licensing fee.

(C) A Point-of-Sale system which is entirely independent from any weighing or measuring device is exempt from the licensing fee.

Section 10. Repeal Chapters.

(a) The following Chapters of Department of Agriculture rules are hereby repealed:

(i) Chapter 15 – Checkweighing Prepackaged Commodities Regulations

(ii) Chapter XVIII – Specifications, Tolerances & Testing Procedures for Weighing Devices

(iii) Chapter XX – Regulations for Registration of Weighing & Measuring Device Service Technicians

APPENDIX A

Example Written Agreement between parties

EXAMPLE WRITTEN AGREEMENT BETWEEN PARTIES

WYO. STAT. § 40-10-121(c) Except as otherwise required by law, rule, regulation or third party agreement, the Department shall have no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

The parties signed hereto, agree that the weighing device used to determine the weight of _____ on this date _____ has not been certified by the State of Wyoming, Department of Agriculture, or duly placed in service by a Registered Service Technician; AND the use of the weighing device by the parties is not regulated by the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

Seller:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Buyer:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Seller Signature

Date

Buyer Signature

Date