

West Virginia Division of Labor Weights and Measures Section

570 MacCorkle Avenue
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Service Agency and Service Persons Program Policy

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Revised May 9, 2007

**Code for Service Agency &
Service Persons**

§47-1-8. Requirements for the registration of service persons and service agencies for commercial weighing and measuring devices.

The uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices as adopted by the national conference of weights and measures and published in national institute of standards and technology handbook 130, "Uniform Laws and Regulations" and supplements thereto or revisions thereof, shall apply to the registration of service persons and service agencies in the state, except insofar as modified or rejected by legislative rule.

§47-1-10. Requirements for type evaluation.

The uniform regulation for national type evaluation as adopted by the national conference on weights and measures and published in national institute of standards and technology handbook 130, "Uniform Laws and Regulations" and supplements thereto and revisions thereof, shall apply to type evaluation in the state, except insofar as modified or rejected by legislative rule.

§47-1-22. Civil penalties.

(a) No person shall:

- (1) Use or have in possession for use in commerce any incorrect weight or measure;
- (2) Sell or offer for sale for use in commerce any incorrect weight or measure;
- (3) Remove any tag, seal or mark from any weight or measure, without specific authorization from the weights and measures section; or
- (4) Violate any provisions of this article or rules promulgated under it, not defined in subsection (a), section twenty-three of this article.

(b) Any person who violates subsection (a) of this section or any rule promulgated by the commissioner may be assessed a civil penalty by the commissioner, which penalty shall not be more than one thousand dollars for each violation. Each violation shall constitute a separate offense. In determining the amount of the penalty, the commissioner shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

A civil penalty may be assessed by the commissioner only after the commissioner shall have given at least ten days notice to the person. Notice shall be in writing, shall contain a short, plain statement of the matter asserted, and shall designate a time and place for a hearing where the person may show cause why the civil penalty should not be imposed. Notice of hearing shall be sent by registered mail. The person may, at the time designated for the hearing, produce evidence on his or her behalf and be represented by counsel.

Any person aggrieved by a decision of the commissioner shall have the right to a contested case hearing under the provisions of article five, chapter twenty-nine-a of this code, et seq.

§47-1-23. Criminal penalties.

(a) No person shall:

- (1) Hinder or obstruct any weights and measures official in the performance of his duties;
- (2) Impersonate in any way the commissioner, his assistants, deputies or inspectors;
- (3) Use in commerce any weight or measure which has not been inspected and approved by the commissioner of weights and measures or his or her authorized inspectors or deputies; or
- (4) Use or have in his or her possession for the purpose of selling or using any device or instrument to be used to or calculated to falsify any weight or measure.

(b) Any person who, by himself or herself or by his or her servant or agent, or as the servant or agent of another person, knowingly violates subsection (a) of this section, is guilty of a misdemeanor, and, upon a first conviction, shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both fined and imprisoned; and upon a second or subsequent conviction, he or she shall be fined not less than one hundred nor more than one thousand dollars, or imprisoned for not more than six months, or both fined and imprisoned.

Weights and Measures

Service persons / Agency Registration Program Policy

May 9, 2007

Effective March 30, 1994, Chapter 47 of the West Virginia Code was revised to include Section 47-1-8, which adopts National Conference on Weights & Measures Handbook 130. This policy relates specifically to the “Uniform Regulation for the Voluntary Registration of Service Persons and Service Agencies for Commercial Weighing and Measuring Devices”.

THE PRIVILEGES OF REGISTRATION

REGISTERED service persons will be granted the ability to place new devices into commercial service or return to service any devices which have been condemned or rejected by a Weights and Measures official, after repairs, recalibration and following the procedures listed in this publication including the submission of the proper forms to the Weights and Measures office.

NONREGISTERED service persons and agencies will not be allowed to place or return weighing or measuring devices to commercial service. These devices will not be placed into service until inspected by a Weights and Measures official.

When utilizing the privileges of the service registration program, you and/or your registered agents are, in effect, taking the place of Weights and Measures inspectors, and must follow all applicable codes, laws and regulations. You can be fined and/or your registration status revoked for violations of the Service persons Registration Program regulations.

Registration of Service Persons and Agencies is voluntary, however the following requirements apply:

1. Completion of WM Form 310 Application for Service Agency Registration, certifying that the applicant(s):

- A. are fully qualified to install, service or repair devices within the category where competency is being registered, and
- B. have in their possession or available for use, and will use, all necessary testing equipment and sufficient standards to adequately test devices as set forth in the “NOTES” section of each applicable code in NIST Handbook 44, and in accordance with procedures set forth in NCWM Publication 12, and
- C. has full knowledge of all appropriate weights and measures laws, orders, rules and regulations.

2. Have current copies of the following publications physically available in a central location for reference and use. See the attached list for availability and cost

- A. NIST Handbook 44, “Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices”, and
- B. NIST Handbook 130, “Uniform Laws and Regulations”, and
- C. NCWM Publication 12, “Examination Procedure Outlines for Weighing and Measuring Devices”, (may be obtained from WV W&M Office)

3. Have and utilize approved security seals. A sample security seal must be submitted for approval.

Approved security seals must meet the following requirements:

A. Be of a type approved by the Weights and Measures Section (NIST Handbook 44; Section 2.20. Para. S.1.11)

B. Must positively identify the service agency or individual by initials or design.

C. The security seals must be utilized in a manner that requires the security seal to be broken before an adjustment can be made to any component affecting the calibration of a weighing or measuring device.

4. Maintain and utilize sufficient standards for calibration and testing weighing and measuring devices.

A. Service agencies must use the minimum standards for testing devices as required in the “Notes” section of each applicable device code contained in NIST Handbook 44. Test standards used in West Virginia must be certified at specific intervals** by a NIST traceable laboratory. It is the service agencies responsibility to maintain their standards and have them recalibrated at the required intervals.

*** See attached schedule of required calibration intervals for standards.*

Example: For testing a 30 pound electronic scale with a graduation of .01 lb. (30X.01 lb.), the minimum required standards are; a thirty (30) pound weight kit (for testing to capacity), including fractional/decimal weights (for testing below one (1) pound to the minimum graduation).

Example: For testing a fuel meters with a normal rate flow rate in excess of 20 gpm (gallons per minute), but less than 50 gpm, a fifty gallon prover is required. The prover used must be large enough to test it at the full / normal flow rate for one (1) minute. For flow rates less than 20 gpm, you may use a five (5) gallon test measure.

Example: For testing a 100,000 lb. vehicle scale with a graduation of 20 lb. (100,000X20 lb.) you must have a minimum of 25,000 lb. of known test weights, a calibrated test cart, and smaller sensitivity weights up to 30 lb.

B. If standards are calibrated at a laboratory other than West Virginia, copies of the current calibration certification certificates must be submitted to West Virginia Weights and Measures each time they are recalibrated.

C. A copy of the current calibration certificate must be carried with the standards at all times.

Certificates of Registration for service agencies and servicepersons expire 1 year from date of issue, at which time, in order to maintain their privileges, service agencies and personnel must renew their certification.

1. A notification will be sent to each service agency or person that their registration is scheduled to expire containing a list of currently registered personnel.

2. The agency or person must check the list and make any corrections or additions to the list and return it to the Weights and Measures Office. Prior to the expiration date.

3. Failure to return the notification will result in the agency or person being placed on an “inactive status”, and loss of privileges until the registration is made current.

Calibration Intervals

The following is a list of various standards calibrated by the West Virginia Metrology Laboratory and the applicable period of traceability which applies to the standards after the original calibration date.

Equipment	Traceability Period
Weight Kits:	
AV Weight Kit (30 lb.)	1 year
Metric Weight Kits	1 year
Pharmacy Weight Kits	5 years
Cast Iron Weights:	
Service Company Weights	1 year
Construction (“b” ID numbers)	2 years
Coal Load Out (greater than 2,000 lb.)	5 years
Weight Buggy	1 year
All others	1 year
Volume:	
1 gallon test measure	1 year
5 gallon test measure	1 year
50 gallon to 200 gallons	1 year
LPG provers	5 years
>200 gallon provers	5 years

Publications Availability

NCWM Handbooks 44 and 130 are published annually and possession of the current editions of these handbooks is required for registered agencies.

NCWM Handbook 44, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices.

NCWM Handbook 130, Uniform Laws and Regulations,

NCWM Publication 12, Excerpts applicable to your area of service from “Examination Procedure Outlines for Weighing and Measuring Devices” are available from West Virginia Weights and Measures. Contact the W&M office for details.

Handbooks 44 and 130 are available from:

National Conference on Weights and Measures (NCWM)
15245 Shady Grove Road, Suite 130
Rockville, MD 20850
Phone: 240-632-9454 Fax: 301-990-9771

Note: Handbook 44 and Handbook 130 are furnished as part of membership in the National Conference on Weights and Measures (NCWM).

REQUEST FOR ASSISTANCE (RFA)

A RFA is a Request for Assistance which is assigned a number allowing Weights and Measures to track the request. RFA numbers are issued and remain active until an Inspector takes the needed action to close the RFA.

There are a number of reasons to issue a RFA; they may have different priorities as to the timeliness of the response.

- a. Consumer Complaint
- b. Service company responding to a device rejection by Weights and Measures Official
- c. Service company providing Emergency repair
- d. Service company providing routine maintenance or repairs
- e. Service company installing all new equipment

These are just a few of the examples for issuing a RFA and assigning a RFA Number.

In the cases involving a service company they must follow the established procedures set forth in the Service Agency Registration Section of the code and Handbook. Questions pertaining to this should be forwarded to the supervisors or director.

During the initial contact the office assistants will use the preprinted questionnaires and insure that all the needed information is completed.

If at any time during this procedure the owner, service company or complainant cannot supply all of the information required, they will be instructed to collect it and then call back.

CHECK LIST FOR REGISTERED SERVICE COMPANIES

Only registered service agencies may place weighing or measuring devices into service. This privilege is dependent upon following these guidelines.

PLACING NEW OR REPAIRED DEVICES INTO SERVICE

If used commercially, all new weighing or measuring devices must be **NTEP** approved. Check with the manufacturer or Weights and Measures to insure the device has an NTEP Certificate of Conformance prior to purchase. You can check this on the internet @ www.ntep.nist.gov/ntep/DatabaseSearch.asp.

The NTEP Certificate of Conformance number for that device must be entered on the Weights and Measures Form 301B when it is completed.

Giving as much prior notice as possible, at least 48 hours, schedule a date for final installation with Weights and Measures, 304-722-0602. If you don't have an exact date, give an estimated date and then update it as required. **(THIS APPLIES TO INDIVIDUAL METERS OR SCALES)**

(FOR EMERGENCY SERVICE, SEE LATTER IN THIS DIRECTIVE)

For some situations, **at least 10 working days notice is required.** The following are a few examples requiring the 10 days notice.

1. New vehicle or hopper scale installation or calibration
2. High volume fixed fuel meters (Pumping over 20 gallons per minute)
3. New or recalibrated truck mounted meters (all types)
4. New or upgraded retail gas station installation ***
5. New or recalibrated retail check out scale installation ***

*** If installing only one (1) device, then 48 hours notification is acceptable. (All notifications are in working days, does not include week ends or holidays)

Upon the Service Company / Agent contacting the Weights and Measures Section with all the required information, a RFA number will be assigned. This number will track the job through completion. Weights and Measures will notify the inspector for that area of the anticipated installation date. The inspector will contact the Service Company / Agent to arrange the inspection. The service company may personally contact the area inspector, **BUT**, the service company or service agent is required to get the RFA number before any inspection can be scheduled with the local inspector.

WHAT TO DO IF A WEIGHTS AND MEASURES INSPECTOR IS NOT AVAILABLE

If a weights and measures inspector is not available, you will be informed by the weights and measures section to place the device(s) into service using a 301B form. You will be required to run all the appropriate Handbook 44 tests on the device(s) using the applicable EPO's. Some devices must have specific tests ran on them before final approval. *(Example: In most situations, service companies are required to run a minimum of 150 gallons of fuel through mechanically calibrated and 250 gallons through meters that are calibrated electronically. This applies to all retail fuel meters prior to any calibration and subsequent approval by Weights and Measures)*

If at any time, any service agent has questions, they should contact the Weights and Measures Section.

After testing, install your company's security seal to the adjustment components of the device. **(YOU MUST ALWAYS REPLACE ANY FACTORY SEAL WITH YOUR SERVICE COMPANY SEAL)** The security seal must be intact when the Weights and Measures Inspector test the device for official sealing. It insures that the device has not been tampered with since you performed your service.

Completely fill out the 301B, this includes the RFA number, the information on your standards used, the type of devices and the work that you performed on them. You must Fax the completed 301B to the Weights and Measures Office as soon as possible but never latter than 24 hours after

the work has been performed. This includes weekends. **(FAX NUMBER 304-722-0605)** The number operates Twenty Four (24) hours a day Seven (7) days a week.

ADJUSTMENTS MADE DURING “ROUTINE SERVICE CALLS” WITH NO RFA NUMBER

The West Virginia Weights and Measures Section, understands that your company may have contractual agreements for routine service with your clients. Most of the time Weights and Measures, does not need to know about routine scheduled service calls made by your company. However, if after arriving it is determined that your agent is going to make calibrations or do any other type of repairs that will require the security seal to be broken, Weights and Measures must be notified.

During regular business hour for Weights and Measures (8:00am to 4:00pm, Monday thru Friday) you must immediately notify the Weights and Measures Section and obtain a RFA number for that job.

For work done after normal business hours, you must notify Weights and Measures by faxing a 301B to 304-722-0605. You must list all work performed on that device(s) and in the space for the RFA number you must write the words “AFTER-HOURS”.

Prior to your service call if you believe that you will be making adjustments or calibrations then you must request a RFA number.

EMERGENCY SERVICE CALLS

An emergency is when a device owner contacts a service agency **AFTER** Weights and Measures normal business hours (Monday thru Friday, 8:00am to 4:00pm) with a break down that requires immediate action. In this case, the service agent must write “**EMERGENCY**” in the RFA number box on the 301B. Then it must be faxed to the Weights and Measures office as soon as possible, but no longer than 24 hours after the service has been completed. In these cases the service company will not be issued a RFA number.

If the service is scheduled in advance, but needs to be done after hours, this is not an emergency and an RFA number needs to be obtained.

(EXAMPLE OF AN EMERGENCY) A retail fuel dispenser has been run over by a car or truck scale indicator has been damaged by lightning.

The frequency of emergency 301B’s submitted to the Weights and Measures are tracked. This situation is generally out of the control of the service company who must respond to their customers. However a large number of emergency 301Bs will alert the Weights and Measures office to look further into the reason.

PERFORMING SERVICE ON A DEVICE THAT HAS BEEN REJECTED BY A WEIGHTS AND MEASURES INSPECTOR

When a device fails a Weights and Measures inspection, the inspector will leave a 301, "NOTICE OF DEVICE REJECTION". No RFA will be issued in this situation. If the device is repaired without a Weights and Measures inspector being present, the agency and agent are responsible for filling out the proper information on the 301 and returning it to the Weights and Measures Office. This must be done within 24 hours of the work being performed.

It is the business's responsibility to maintain and supply the service company / agent with the 301 form that was left by the Weights and Measures Inspector. In the event that the 301 is not at the location or has been misplaced, the service company may repair the device, but they must generate a 301B and state specifically that the 301 was not available.

FURTHER INFORMATION FOR ANY OF THE ABOVE MENTIONED SCENARIOS OR ANY ADDITIONAL INFORMATION; PLEASE CONTACT THE WEST VIRGINIA DIVISION OF LABOR, WEIGHTS AND MEASURES SECTION AT 304-722-0602, OR BY FAX AT 304-722-0605.

The Division of Labor processes your personal information for appropriate and customary business purposes. Your personal information may be disclosed to other State agencies or third parties in the normal course of business as needed to comply with State or Federal laws. If you have any questions about the Division of Labor's use of your personal information or would like a copy of the Division's complete privacy notice, please contact the Webmaster, Robert Bryant at Robert.L.Bryant@wv.gov or the Division's Privacy Officer, John Junkins at John.R.Junkins@wv.gov.