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☛ Details: Request for public hearing on Wisconsin Administrative Code ATCP 92.08.

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)



Joe Leibham

STATE SENATOR

May 2, 2008

State Senator Bob Jauch
Room 118 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Jauch,

In consideration of your position as the Senate Co-Chairman of the Joint Committee for Review of Administrative Rules, I am requesting that you consider holding a public hearing on Wisconsin Administrative Code § ATCP 92.08.

In November of 2006, the Department of Agriculture, Trade, and Consumer Protection (DATCP), made an interpretation of Wisconsin State Statute § 98.04 that would essentially ban municipalities from contracting out weights and measure inspections. Prior to this interpretation, municipalities were allowed to contract out these services to third party contractors as long as "qualifications have been certified by the state or local civil service agency under the rules of the agency."

This "new" interpretation of the rule was brought to my attention by one of my constituents, Ms. Patricia Huberty who is the Clerk for the City of Plymouth. She has stated that this new interpretation of the rule will result in the expenditure of additional taxpayer dollars to conduct the same services.

Therefore, I would respectfully ask that a public hearing be held on this rule so we may learn more about the change and its impact and possibly take further action to revise the rule back to its original intent.

I appreciate your consideration for holding a public hearing on this issue. I look forward to your timely response.

It is an honor representing the residents of the 9th District in the State Senate!

Sincerely,

Joe Leibham

State Senator
9th District

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WISCONSIN STATE LEGISLATURE



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Chapter ATCP 92

WEIGHTS AND MEASURES

Subchapter I — General Provisions

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Subchapter V — Liquefied Petroleum Gas

- ATCP 92.40 Thermometer and thermometer well specifications.
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Note: Chapters Ag 51, 52, 115 and 120 as they existed on December 31, 1991 were repealed and a new chapter ATCP 92 was created effective January 1, 1992; Chapter Ag 52 was renumbered chapter ATCP 92 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of ss. 93.07 (1), 93.15 (1), 98.03 (2), 98.16 (3), 98.18 (1h) and (2) and 100.20 (2), Stats. Violations of this chapter are subject to the penalties and remedies provided under ss. 98.26, 100.20 (5) and (6) and 100.26 (3) and (6), Stats.

Subchapter I — General Provisions

ATCP 92.01 Definitions. In this chapter:

- (1) "Commodity" means any product or commodity that is sold, offered for sale, or held or distributed for sale in this state. "Commodity" includes a consumer commodity.
- (1e) "Construction plan" means a set of detailed blueprints for the construction of a vehicle or livestock scale, including the construction of any scale pit, footings, base slabs, piers, end walls and approaches.
- (1m) "Consumer commodity" has the meaning given in s. ATCP 90.01 (5).
- (1s) "Correct," as applied to a weighing or measuring device, means that the weighing or measuring device complies with this chapter and ch. 98, Stats.
- (2) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.
- (2g) "Individual" means a natural person.
- (2r) "Inspector" means any of the following:
- A department weights and measures inspector.
 - A municipal weights and measures sealer or inspector under s. 98.04 (1), Stats.
- (3) "Livestock scale" means a scale designed to weigh livestock, but does not include a scale which is designed to weigh only one animal at a time.
- (4) "Load receiving element" means that portion of a scale, such as a scale platform or deck, which receives the load to be weighed.
- (5) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, or other legal organization or entity.
- (6) "Pit neck" means that part of a scale pit, usually an extension of a scale pit wall, which encloses the end of the transverse lever of a lever-type weighing element, and which supports the indicating element.
- (7) "Portable vehicle scale" means any self-contained vehicle scale that is all of the following:
- Designed and engineered by the original manufacturer to measure weight accurately when used without a permanent concrete foundation or approach ramp.

(b) Equipped with lifting and positioning mechanisms that are built into the structure of the scale frame.

(c) Designed for use with approach bulkheads.

(d) Readily movable between job sites.

(9) "Vehicle scale" means a scale designed to weigh loaded or unloaded highway, farm or industrial vehicles, and includes above-ground scales, dump scales and portable scales.

(10) "Weighing element" means that portion of a scale that supports the load-receiving element and transmits to the indicating element a signal or force resulting from the load applied to the load-receiving element.

(11) "Weighing or measuring device" means any device used to determine the weight or measure of a commodity, for commercial purposes. "Weighing or measuring device" includes a scale, meter, measuring device or timing device that affects the determination of weight or measure.

(12) "Weights and measures" has the meaning given in s. 98.01 (7), Stats.

(13) "Weights and measures service company" means a person that is required to be licensed under s. ATCP 92.20 (1).

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; cr. (11m), am. (14), Register, December, 1995, No. 480, eff. 1-1-96; CR 01-028: r. (1), (6) to (9) and (12) and renum. (2) to (5), (10), (11), (11m), and (13) to (15) to be (1) to (10), Register September 2001 No. 549, eff. 10-1-01; CR 02-141: renum. (1) to be (1e), cr. (1), (1m), (1s), (2g), (2r), (11) to (13), am. (5), r. (8) Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.02 Weighing and measuring devices; general requirements. (1) Except as provided in this chapter, weighing and measuring devices shall comply with applicable specifications, tolerances and other technical requirements set forth in the national institute of standards and technology handbook 44 (specifications, tolerances and other technical requirements for weighing and measuring devices), 2006 edition.

Note: See s. 98.03 (2), Stats. The current edition of the National Institute of Standards and Technology Handbook 44 (Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices) is on file with the department, the secretary of state and the legislative reference bureau. Copies may be purchased from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(2) Except as provided in sub. (3), no person may sell, offer for sale, use or distribute for use in this state a weighing or measuring device unless the device is a type or model certified by one of the following:

(a) The chief of the office of weights and measures of the national institute of standards and technology.

(b) The national type evaluation program administered by the National Conference on Weights and Measures.

Note: Devices certified under par. (b) are commonly known as "NTEP-approved" devices.

(3) Subsection (2) does not apply to any of the following:

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(a) A commercial weighing or measuring device that is first put into use in this state before January 1, 1997.

(b) A commercial weighing or measuring device that is designed, built or customized for a specific application at a single location.

(c) A commercial weighing or measuring device for which neither the national institute of standards and technology nor the national conference of weights and measures has yet adopted testing and certification procedures, provided that the department authorizes the sale and use of that device in this state. A person seeking department authorization shall apply to the department in writing. The application shall include relevant engineering and use specifications for the device, and shall document that neither the national institute of standards and technology nor the national conference on weights and measures has yet adopted testing and certification procedures for that device. The department shall grant or deny authorization within 30 days after the department receives a complete application, including any supplementary information requested by the department.

(4) A commercial weighing or measuring device is no longer considered a type or model certified under sub. (2) if any of the following applies:

(a) Parts or components of a type specifically certified under sub. (2) are replaced with parts or components not certified under sub. (2).

(b) The device is repaired or remanufactured with parts or components that are inconsistent with the manufacturer's metrological design.

(c) The repair or remanufacture of the device causes the device to be in violation of any applicable standard under sub. (1).

(5) No person may misrepresent that a weighing or measuring device is a type or model certified under sub. (2).

(6) No person may cause a weight or measure to be incorrect.

(7) A person who manufactures or distributes a commercial weighing or measuring device violates sub. (6) if all of the following apply:

(a) The person knows or reasonably should know that the weighing or measuring device has a latent or patent defect that may cause an incorrect weight or measure.

(b) The person fails to take steps, which that person is reasonably capable of taking, which would prevent the defect from causing incorrect weights or measures.

(c) The defective weighing or measuring device causes an incorrect weight or measure which is attributable, at least in part, to the defect in the device.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; renum. (intro.) to (1), cr. (2) to (5), Register, December, 1995, No. 480, eff. 1-1-96; cr. (6) and (7), Register, June, 1998, No. 510, eff. 7-1-98; CR 02-141: am. (1), r. and recr. (2) Register August 2003 No. 572, eff. 9-1-03; CR 04-005: am. (1) and (3) (c) Register October 2004 No. 586, eff. 11-1-04; CR 06-028: am. (1) Register November 2006 No. 611, eff. 12-1-06.

Subchapter II — State and Municipal Programs

ATCP 92.04 Municipal program components. A municipal weights and measures program under s. 98.04, Stats., shall inspect and test all the following for compliance with applicable requirements under ch. 98, Stats., this chapter, and chs. ATCP 90 and 91:

- (1) Commodities.
- (2) Liquid measuring devices.
- (3) Scales.
- (4) Weighing, measuring and price verification systems.
- (5) Timing devices.

(6) Linear measuring devices.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.06 Inspection procedures and equipment.

(1) **GENERAL.** Inspectors shall inspect weights and measures according to ch. 98, Stats., this chapter, and chs. ATCP 90 and 91. An inspection, and the equipment used to make it, shall comply with all of the following that apply to that type of inspection:

(a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2006 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2005 edition.

(2) **PRICE VERIFICATION SYSTEMS.** Inspections of price verification systems shall comply with section 7 "test procedures" from the chapter titled "examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2006 edition.

(3) **INSPECTION EQUIPMENT AND STANDARDS.** The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by inspectors. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

Note: The standards incorporated by reference in subs. (1) and (2) are on file with the department and the legislative reference bureau. Copies may be purchased from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-754.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005: am. (1) (a) and (2) Register October 2004 No. 586, eff. 11-1-04; CR 06-028: am. (1) (a), (b) and (2) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.08 Inspector hiring and training. (1) **HIRING.** A municipality that has a weights and measures program under s. 98.04, Stats., shall hire its inspectors from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency.

Note: See s. 98.04, Stats.

(2) **TRAINING.** Inspectors shall complete weights and measures training prescribed by the department. The department may approve training programs offered by other entities, including governmental, private or educational entities. The department shall issue completion certificates to inspectors who complete prescribed training.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03; CR 06-028: am. (1) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.09 Sealing or rejecting weights and measures. An inspector may do any of the following after inspecting weights and measures:

(1) Apply a seal or mark of approval to weights or measures that comply with applicable requirements under ch. 98, Stats., and this chapter.

(2) Mark or tag as "rejected" those weights and measures that fail to comply with applicable requirements under ch. 98, Stats., or this chapter.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.10 Recordkeeping and reporting.

(1) **ANNUAL REPORT.** A municipality that operates a weights and measures program under s. 98.04 (1), Stats., shall submit to the department an annual report by August 1 of each year. The report shall cover the 12 months ending June 30 of that year. The report shall describe, in a form prescribed by the department, the activities and findings of the municipal program during the period covered by the report. The report shall include all of the following:

(a) The names of all supervisory and inspection personnel assigned to perform weights and measures program activities.

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(b) The number and types of devices or equipment inspected, and a summary of compliance data related to those inspections.

(c) The number and types of establishments inspected.

(d) The number and types of commodities inspected, and a summary of compliance data related to those inspections.

(e) A summary of weights and measures prosecutions and enforcement actions.

(f) A summary of training activities in which inspection personnel participated during the period covered by the report.

(g) The estimated annual operating budget for the program.

(h) Other relevant information required by the department.

Note: You may obtain a copy of the Annual Report form for Municipal Departments of Weights and Measures by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(2) RECORDS AND AUDITS. A municipality that operates a weights and measures program under s. 98.04, Stats., shall keep complete and accurate records of its activities and findings under that program. The department may audit and evaluate municipal weights and measures programs, as it deems necessary, to ensure compliance with this chapter and ch. 98, Stats.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter III — Weights and Measures Service Companies

ATCP 92.20 Weights and measures service company; license. **(1) LICENSE REQUIRED.** Except as provided in sub. (5), no person may install, service, test or calibrate weights and measures without a current annual license from the department, as required under s. 98.18, Stats. A license expires on December 31 of each year. A license is not transferable between persons or business locations.

(2) LICENSE APPLICATION. A person seeking a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

(a) The applicant's correct legal name and every trade name under which the applicant engages in activities under sub. (1).

(b) The address of each business location from which the applicant engages in activities under sub. (1).

(c) The full name, birthdate, and date of certification of each technician who engages in activities under s. ATCP 92.21 on behalf of the applicant.

(d) The fees required under sub. (3).

Note: You may obtain application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(3) LICENSE FEES. A license application under sub. (2) shall include all of the following applicable fees:

(a) A fee of \$250 if the applicant is engaged solely in installing, servicing, testing or calibrating weights and measures that the applicant owns.

(b) Each of the following fees if the applicant installs, services, tests or calibrates weights and measures for others:

1. A basic license fee of \$250.

2. A supplementary fee of \$75 per year for each additional business location, in excess of one location, from which the applicant installs, services, tests or calibrates weights and measures for others.

(c) A surcharge of \$200 if the department determines that, within one year before submitting the license application, the applicant operated without a license in violation of sub. (1).

(d) The late renewal fee provided under s. 93.21 (5), Stats., if the applicant is applying for the renewal of a license that has already expired.

(4) DENYING, SUSPENDING OR REVOKING A LICENSE. The department may deny, suspend or revoke a license under sub. (1) for cause, pursuant to s. 93.06 (7), Stats., and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

(5) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) A person who installs, services, tests or calibrates weights and measures only as an employee of a person licensed under sub. (1).

(b) An inspector or metrologist employed by this state, or by a county or municipality, to test or calibrate weights and measures.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005: am. (3) (d) and r. (3) (d) (note) Register October 2004 No. 586, eff. 11-1-04.

ATCP 92.21 Weights and measures technicians; certification. **(1) CERTIFICATION REQUIRED.** (a) No weights and measures service company may employ or direct an individual to do any of the following, with respect to a weighing or measuring device, unless the department has certified that individual in a category under sub. (4) that includes that device:

1. Remove an official rejection tag or mark applied under s. ATCP 92.09 (2).

2. Test, calibrate, service or seal a weighing or measuring device.

3. Verify that the weighing or measuring device is correct.

(b) No individual operating a weights and measures service company may engage in any of the activities under par. (a) unless that individual is certified under par. (a).

Note: An individual operating a weights and measures service company must also be licensed under s. ATCP 92.20.

(2) APPLICATION FOR CERTIFICATION. An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual certified under sub. (1). The applicant shall apply on a form provided by the department. An application shall include, for each individual to be certified, all the following:

(a) The individual's full name (first, middle and last) and birth date.

(b) Proof that the individual has met the examination requirement under sub. (3) (a), or is currently certified by another state as provided in sub. (3) (b).

Note: You may obtain certification application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(3) EXAMINATION REQUIRED. (a) The department may not certify an individual under sub. (1) in any category under sub. (4) unless one of the following applies:

1. The individual has passed the central weights and measures association registered service persons examination, or another examination approved by the department, in that category.

2. The individual is currently certified in an equivalent category in another state, and has passed an examination under subd. 1. within 5 years prior to the date on which the department receives the certification application under sub. (2).

(b) An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual take an examination required under par. (a). The applicant shall apply to the department, on a form provided by the department. The application shall include, for each individual, all the following:

1. The individual's full name (first, middle and last) and birth date.

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2. An address and telephone number at which the applicant may be contacted to schedule the examination.

3. A \$25 examination fee. A single fee entitles an individual to take examinations in one or more certification categories on the same day.

Note: You may obtain exam application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(c) Whenever the department receives a complete application under par. (b), the department or its agent shall schedule an examination date with the applicant. The examination date shall be not later than 60 days after the date on which the department receives the complete application, unless the applicant agrees to a later date.

(4) CERTIFICATION CATEGORY. The department may certify an individual in one or more of the device categories for which the central weights and measures association provides examinations.

Note: Currently, the Central Weights and Measures Association provides examinations in the following device categories: retail computing scales, medium capacity scales, livestock scales, vehicle scales, railroad track scales, belt conveyor scales, retail motor fuel dispensers, vehicle tank meters, LPG meters, and agricultural chemical and mass flow meters.

(5) ACTION ON CERTIFICATION. The department shall grant or deny an application under sub. (2) within 45 days after the examination date under sub. (3) (c) except that, if no examination is required under sub. (3), the department shall grant or deny an application under sub. (2) within 45 days after the department receives a complete application.

(6) CERTIFICATION EXPIRES. A certification under sub. (1) expires 5 years after the department issues that certification.

(7) DENYING, SUSPENDING OR REVOKING A CERTIFICATION. The department may deny, suspend or revoke a certification under sub. (1) for cause, pursuant to s. 93.06 (7), Stats., and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03, except (1) eff. 12-31-04.

ATCP 92.22 Weights and measures service companies; test procedures and equipment. (1) GENERAL. Whenever a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall do all the following:

(a) Comply with this chapter and ch. 98, Stats.

(b) Comply with applicable requirements contained in the national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2006 edition.

Note: The national institute of standards and technology handbook 44, 2006 edition, is on file with the department and the legislative reference bureau. You may purchase copies of this handbook from the U.S. Government Printing Office, Superintendent of Document Sales, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(c) Use equipment and standards that comply with sub. (2).

(d) Affix a security seal to any adjustment mechanism that is designed to be sealed. The security seal shall identify the weights and measures service company and individual technician by name, initials or other unique identifiers.

(e) Prepare a report according to s. ATCP 92.23.

(2) TEST EQUIPMENT AND STANDARDS. The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by weights and measures service companies. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005: am. (1) (b) and (note) Register October 2004 No. 586, eff. 11-1-04; CR 06-028: am. (1) (b) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.23 Weights and measures service companies; reports. (1) REPORT REQUIRED. A weights and measures service company shall prepare a written report whenever it installs, services, tests or calibrates a weighing or measuring device. The weights and measures technician who performs the work on behalf of the service company shall prepare and sign the report. The report shall include all the following:

(a) The name of the device owner or operator, the location of the device, and a uniquely identifying description of the device.

(b) The date on which the service company installed, serviced, tested or calibrated the device.

(c) The nature of the work performed on the device.

(d) A statement that an inspector had marked or sealed the device as "rejected," if that is the case. The report shall include the date of the "rejected" mark or seal, if known. The report shall state whether the service company returned the device to service and, if it did return the device to service, the date on which it did so.

(e) The level of accuracy and correctness found at the beginning of each test and after any adjustments to the device.

(f) A statement clearly indicating whether the device was correct when the service company completed its work. If the service company did not determine whether the device was correct, the report shall indicate that fact.

(g) The name of the service company technician who installed, serviced, tested or calibrated the device.

(2) GIVING COPIES. Within 10 days after a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall mail or deliver a copy of its report under sub. (1) to each of the following:

(a) The owner or operator of the device.

(b) The department if the service company returns to service a device rejected by the department.

(c) The municipality if the service company returns to service a device rejected by the municipality.

(3) KEEPING COPIES. A weights and measures service company shall keep a copy of every report under sub. (1) for at least 2 years after the report is created.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.24 Prohibited practices. No person who sells, installs, services, tests or calibrates a weighing or measuring device may do any of the following:

(1) Cause the device to be incorrect.

(2) Misrepresent that the device is correct.

(3) Misrepresent, directly or by implication, that the person has determined whether the device is correct.

(4) Fail to comply with this chapter or ch. 98, Stats.

(5) Remove any reject tag or mark applied by a state or municipal inspector unless the person first does one of the following:

(a) Adjusts the device to bring it into compliance with this chapter and ch. 98, Stats.

(b) Obtains express authorization from the department or, if the reject tag or mark was applied by a municipal inspector, from that municipality.

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter IV — Vehicle and Livestock Scales

ATCP 92.30 Vehicle and livestock scales; permits and construction requirements. (1) PERMIT REQUIRED. No person may install or relocate a vehicle or livestock scale without a permit from the department. A permit application shall be made in writing on a form provided by the department, and shall include a construction plan. The application and construction plan shall document that the scale complies with the construction standards under sub. (3). The department shall grant or deny a permit

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application within 20 business days after a complete application and construction plan are filed with the department.

(2) **CONSTRUCTION PLAN.** Instead of filing a separate construction plan with each permit application under sub. (1), an applicant may file a master construction plan which applies to 2 or more applications, and may refer to that master plan in each individual application. If a proposed installation or relocation entails any deviation from the master plan, the individual permit application shall clearly describe every deviation.

(3) **CONSTRUCTION STANDARDS.** Except as provided under sub. (6) or (8), every vehicle scale and every livestock scale shall comply with the following construction standards:

(a) **Load-bearing piers.** The main load-bearing piers supporting a scale shall be constructed of reinforced concrete. The main load-bearing piers shall be poured so that they are monolithic with the scale walls, or shall be tied to the walls with 1/2 inch (1.2 cm) reinforcing rods.

(b) **Scale walls.** 1. The walls of every scale shall be constructed of reinforced concrete. The side walls of every scale, other than a livestock scale constructed prior to January 1, 1992, shall be not less than 12 inches (30 cm) thick. The end walls of every scale shall be not less than 16 inches (40 cm) thick, except that end walls of a livestock scale or above-ground scale shall be not less than 12 inches thick.

2. Throughout every scale wall, 1/2 inch (1.2 cm) reinforcing rods shall be placed vertically on no more than 12 inch (30 cm) centers, and horizontally on no more than 18 inch (45 cm) centers.

3. A vehicle scale end wall, if poured with seams or joints, shall be constructed with a step at the outer edge to provide support for the vehicle approach slab unless the approach slab consists of reinforced concrete which is poured monolithically with the end wall and joined to the end wall with reinforcing rods. The step shall extend for the entire length of the end wall, and shall be at least 6 inches (15 cm) wide and 6 inches (15 cm) deep.

(c) **Foundations.** 1. Load-bearing piers and scale walls shall rest on reinforced concrete footings which extend at least 12 inches (30 cm) below the frost line, or on a reinforced concrete base slab not less than 12 inches (30 cm) thick. Footings and slabs which support load-bearing piers or scale walls shall be constructed according to the manufacturer's engineering drawings, and shall be constructed to prevent frost heaving.

2. Scale pit floors and surfaces underlying above-ground vehicle scales shall be constructed of concrete, and shall be constructed so that they are well drained. The concrete floor or surface shall extend the full length and width of the scale. This subdivision does not apply to above-ground scales constructed prior to January 1, 1992.

3. A load-bearing concrete surface underlying an above-ground vehicle scale shall rest on a bed of compacted aggregate which is at least 6 inches (15 cm) thick under every portion of the load-bearing concrete surface, or on an alternative foundation constructed according to the manufacturer's engineering drawings. This subdivision does not apply to above-ground scales installed prior to January 1, 1992.

(d) **Top edge of scale wall.** The top inside edge of every scale wall shall be framed, for its entire length, with a structural steel angle iron coping. The angle iron shall be at least 2 inches (5 cm) by 2 inches (5 cm) by 1/4 inch (.6 cm), and shall be constructed with welded projections so that it can be anchored in the concrete at approximately 4 foot (1.2 meter) intervals.

(e) **Clearances around scales.** 1. In every scale pit, there shall be a clearance of not less than 6 feet (1.8 meters) between the finished floor line of the scale pit and the top edge of the pit coping, or a clearance of not less than 48 inches (1.2 meters) between the finished floor line of the scale pit and the bottom of the load receiving element, the bottom of the beam supporting the load receiving element, or the top of the fully electronic load receiving element. The clearance between the load receiving element and the coping

of every scale pit wall shall be not less than 1/2 inch (1.2 cm) and not more than 3/4 inch (1.8 cm).

2. In every above-ground scale, there shall be a clearance of not less than 6 inches (15 cm) between the top surface of the base slab and the bottom of the load receiving element. This subdivision does not apply to above-ground scales constructed prior to January 1, 1992.

3. In a scale pit containing a lever-type weighing element, there shall be a clearance of at least 27 inches (70 cm) on one side of the transverse lever between the transverse lever and the pit neck wall.

(f) **Mechanical indicating elements; support.** Mechanical indicating elements, including weigh beams and dials, shall be placed on reinforced concrete footings or metal structural members which are sufficiently strong to prevent deflection.

(g) **Scale pit entrance.** Every scale pit shall include an entrance through which persons may enter the scale pit. The entrance shall take one of the following forms:

1. In a scale pit containing a lever-type weighing element, a square opening in the pit neck, with dimensions of at least 22 inches (58 cm) by 22 inches (58 cm).

2. An opening, at least 24 inches (60 cm) in diameter, in the scale platform.

3. An opening in the pit wall, not less than 36 inches (90 cm) wide. The top of the opening shall be no lower than the bottom of the weigh bridge, and the bottom of the opening shall be approximately even with the pit floor.

(h) **Approach surfaces.** Entry and exit approaches to a vehicle scale shall be at least as wide as the scale platform and at least 1/2 the length of the scale platform. Where it meets the end wall of a scale, each approach shall be supported on a step in the top of the end wall as provided under par. (b). Extending for the first 10 feet from the scale, each approach surface shall be on the same plane with the scale platform and shall be constructed of reinforced concrete, compacted asphaltic materials, steel grating or structural steel plate of sufficient strength to withstand all loads equal to the concentrated load capacity of the scale. The remainder of the approach surface shall be constructed of a durable material and shall have a slope of not more than 1:12 (vertical rise/horizontal run). The approach shall be constructed and maintained to drain away from the scale, to provide easy vehicle access to the scale, and to provide easy access by the department or a scale service company to test compliance with s. ATCP 92.02 (1).

(i) **Livestock scales; test weight unloading platform.** A concrete test weight unloading platform shall be constructed and maintained next to every livestock scale. The test weight unloading platform shall be at least 10 feet (3 meters) long and 8 feet (2.4 meters) wide. The test weight unloading platform shall be on the same level and plane as the scale platform. The test weight unloading platform shall be situated so that a test truck can easily lower test weights onto the test weight unloading platform, and so that test weights can easily be moved from the test weight unloading platform to the scale platform.

(4) **TOLERANCES.** Vehicle and livestock scales installed or relocated under sub. (1) shall comply with acceptance tolerances under s. ATCP 92.02 throughout the period starting with the first date of use and ending 90 days after the department first receives notice under sub. (5) that the scale is in use. After that initial period, the scale shall comply with applicable tolerances under s. ATCP 92.02.

(5) **REPORT OF INSTALLATION OR RELOCATION.** If a person installs or relocates a vehicle or livestock scale, that person shall report the completed installation or relocation to the department within 5 days after the installation or relocation is completed. The report shall be filed in writing and shall include all of the following:

(a) The department permit number for the scale installation or relocation permit issued under sub. (1).

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(b) The date of installation or relocation, and the location at which the scale was installed or to which the scale was relocated.

(c) The name of the scale manufacturer, the brand name of the scale, and the model or serial number of the scale.

(d) The capacity of the scale.

(e) The sectional capacity of the scale if the scale was constructed before January 1, 1989, or the concentrated load capacity of the scale if the scale was manufactured on or after January 1, 1989.

(f) A scale test report showing that the scale was tested and correct before it was put into use. The scale test shall comply with s. 98.25, Stats.

(g) A statement indicating whether the scale was sold in connection with the installation or relocation. If the scale was sold, the report shall include the name and address of the buyer and seller, and shall indicate the date of sale.

(6) PERMIT AUTHORIZING CONSTRUCTION VARIANCES. The department may, in its sole discretion, grant a variance from a construction requirement under sub. (3) if the department determines that the variance is justified by special circumstances. A person requesting a variance under this subsection shall submit an application and specific justification to the department in writing. The department may impose any conditions on the variance, including alternative construction requirements, which it considers necessary.

(7) REJECTION NOTICE. A department weights and measures inspector or a municipal weights and measures sealer may issue a rejection notice under s. 98.05 (2), Stats., prohibiting the commercial use of a vehicle or livestock scale which does not comply with this section.

(8) EXEMPTIONS. Subsections (1) to (7) do not apply to any of the following:

(a) A vehicle scale that is used for less than one year at the same location.

(b) Portable vehicle scales installed with all of the following:

1. Durable load bearing foundations that comply with the vehicle scale manufacturer's engineering drawings and specifications.

2. Durable vehicle approaches that provide adequate drainage away from the scale and easy access for the department or a scale service company to test compliance with s. ATCP 92.02 (1).

3. Durable approach bulkheads that provide a barrier between the scale's weighing element, approach material and run off.

(c) A vehicle scale used exclusively for highway construction if that use is supervised by the state of Wisconsin department of transportation.

Note: Scales identified under sub. (8) are not exempt from s. ATCP 92.02, from licensing requirements under s. 98.16, Stats., or from the annual testing requirement under s. 98.25, Stats.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. (1), (3) (b) 3., (c) 1. and 3., (e) 1. and 3., and (h), r. and recr. (8), Register, December, 1995, No. 480, eff. 1-1-96; CR 02-141: renum. from ATCP 92.03 Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.31 Vehicle scale license. (1) LICENSE REQUIRED. No person may operate a vehicle scale without a license from the department, as provided under s. 98.16, Stats. A separate license is required for each scale. A license is not transferable between persons, scales or scale locations. A license expires on March 31 annually.

(2) LICENSE APPLICATION. A person applying for a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

(a) The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle scale.

(b) The nature and location of the vehicle scale.

(c) The fees required under sub. (3).

(d) Other information that the department reasonably requires for licensing purposes.

(3) LICENSE FEES. A person applying for a vehicle scale license under sub. (1) shall pay an annual license fee of \$100 per vehicle scale. The applicant shall also pay a license fee surcharge under s. 98.16 (2) (c), Stats., if that surcharge applies.

Note: Under s. 98.16 (2) (c), Stats., a license applicant must pay a surcharge of \$200 if the department finds that the applicant operated without a required license within one year prior to submitting the license application. Other civil and criminal penalties may also apply.

(4) ACTION ON LICENSE APPLICATION. The department shall grant or deny a license application under sub. (2) within 20 business days after the department receives a complete application.

(5) EXEMPTION. Subsection (1) does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license under sub. (1).

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter V — Liquefied Petroleum Gas

ATCP 92.40 Thermometer and thermometer well specifications. (1) Every meter used for the liquid measurement of liquefied petroleum gas sold or delivered to consumers shall be equipped with a thermometer well. The well shall extend into the flowing liquid either in the liquid chamber of the meter or in the meter inlet or discharge line immediately adjacent to the meter.

(2) The thermometer well shall be constructed so as to permit insertion of a mercury in glass Fahrenheit thermometer which has one-degree graduations, spaced at least 0.04 inch apart.

History: CR 02-141: renum. from ATCP 92.05 (1) Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.41 Manual volume correction. When liquefied petroleum gas is sold or delivered to consumers by liquid measurement through use of a liquid meter that is not equipped with an automatic temperature compensating mechanism, then its volume shall be corrected to a temperature of 60° F. through use of the volume correction factor table set forth in this paragraph. To correct measured volume to volume at 60° F., determine the temperature of the liquid after midpoint in the delivery from the thermometer referred to in s. ATCP 92.40, find the observed temperature in the temperature column in the table, refer to the appropriate column for the product delivered, read the volume conversion factor opposite the observed temperature, and multiply the volume delivered as indicated by the meter by the factor to obtain the volume at 60° F.

CORRECTION FACTOR TABLE

Temperature	Propane	Butane
-20	1.115	1.080
-19	1.113	1.079
-18	1.112	1.078
-17	1.111	1.077
-16	1.110	1.076
-15	1.109	1.075
-14	1.108	1.074
-13	1.107	1.073
-12	1.105	1.072
-11	1.103	1.071
-10	1.102	1.071

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Temperature	Propane	Butane	Temperature	Propane	Butane
-9	1.101	1.070	40	1.032	1.021
-8	1.100	1.069	41	1.030	1.020
-7	1.098	1.068	42	1.029	1.019
-6	1.096	1.067	43	1.027	1.018
-5	1.094	1.066	44	1.026	1.017
-4	1.092	1.065	45	1.024	1.016
-3	1.091	1.065	46	1.022	1.015
-2	1.090	1.064	47	1.020	1.014
-1	1.089	1.063	48	1.019	1.013
0	1.088	1.062	49	1.017	1.012
1	1.087	1.061	50	1.016	1.011
2	1.086	1.060	51	1.014	1.010
3	1.084	1.059	52	1.013	1.009
4	1.083	1.058	53	1.011	1.007
5	1.081	1.057	54	1.010	1.006
6	1.080	1.055	55	1.008	1.005
7	1.079	1.054	56	1.007	1.004
8	1.078	1.053	57	1.005	1.003
9	1.076	1.052	58	1.003	1.002
10	1.075	1.051	59	1.001	1.001
11	1.073	1.050	60	1.000	1.000
12	1.072	1.049	61	.998	.999
13	1.071	1.048	62	.997	.998
14	1.070	1.047	63	.995	.997
15	1.068	1.046	64	.993	.996
16	1.067	1.045	65	.991	.994
17	1.066	1.044	66	.990	.993
18	1.065	1.043	67	.988	.992
19	1.063	1.042	68	.986	.991
20	1.062	1.041	69	.984	.990
21	1.060	1.040	70	.983	.989
22	1.059	1.039	71	.981	.988
23	1.057	1.038	72	.980	.987
24	1.056	1.037	73	.978	.986
25	1.054	1.036	74	.976	.985
26	1.053	1.036	75	.974	.983
27	1.051	1.035	76	.973	.982
28	1.050	1.034	77	.971	.981
29	1.048	1.033	78	.970	.980
30	1.047	1.032	79	.968	.979
31	1.045	1.031	80	.967	.978
32	1.044	1.030	81	.965	.977
33	1.042	1.029	82	.963	.976
34	1.041	1.028	83	.961	.975
35	1.039	1.026	84	.959	.974
36	1.038	1.025	85	.957	.972
37	1.036	1.024	86	.956	.971
38	1.035	1.023	87	.954	.970
39	1.033	1.022	88	.952	.969

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Temperature	Propane	Butane
89950	.968
90949	.967
91947	.966
92945	.965
93943	.963
94 .....	.941	.962
95 .....	.939	.961
96 .....	.938	.960
97 .....	.936	.958
98 .....	.934	.957
99 .....	.932	.956
100 .....	.930	.955

History: CR 02-141: renum. from ATCP 92.05 (2) Register August 2003 No. 572, eff. 9-1-03; correction made under s. 13.93 (2m) (b) 7., Stats., Register August 2003 No. 572.

ATCP 92.42 Sales tickets. (1) When delivery of liquefied petroleum gas is made through a liquid meter equipped with an automatic temperature compensating mechanism, the word "gallon" or any abbreviation thereof shall not appear alone on the

sales ticket but shall be immediately preceded or followed by the words "automatically corrected to 60° F." in the same size and style of type.

(2) When delivery of liquefied petroleum gas is made through a liquid meter not equipped with an automatic temperature compensating mechanism, the sales ticket shall show the delivered gallons, the temperature of the liquid at the time of delivery, the volume correction factor, and the corrected gallonage. Wherever a statement of corrected gallonage appears on the sales ticket the words "corrected to 60° F." shall appear immediately adjacent thereto.

History: CR 02-141: renum. from ATCP 92.05 (3) Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.43 Registered meters. The owner of a meter used to determine the liquid measure of liquified petroleum gas sold or delivered to consumers by liquid measure shall register that meter with the department, and shall pay to the department a one-time registration fee of \$25. The owner shall register each meter and pay the fee for that meter within 60 days after July 1, 1999, or within 60 days after the owner acquires that meter, whichever occurs later. A registration is not transferable between owners.

History: CR 02-141: renum. from ATCP 92.05 (4) Register August 2003 No. 572, eff. 9-1-03.



WISCONSIN STATE LEGISLATURE



NN 2006 - update

CR06-028

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DATCP Docket No. 05-R-03

Rules Clearinghouse No. 06-028

ORDER OF THE STATE OF WISCONSIN

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION ADOPTING
RULES

The state of Wisconsin department of agriculture, trade and consumer protection adopts the following order to repeal ATCP 13.01(2), 70.03(4)(b)(note), 80.02(3)(e), 80.54(1)(a)(note), 155.01(1)(note), (3)(note) and (4)(note) and ch. ATCP 158; to renumber ATCP 13.01(3) to (7); to amend ATCP 13.02(1)(intro.), 17.01(1)(c), 17.03(2)(note), (4)(b)(intro.) and (4)(b)(note), 40.06(2)(f) and (3), 42.16(1)(b) and (2)(b), 42.32(2)(b), 42.40(4)(b), 42.44(6)(a), 42.54(1)(a), 55.14(2)(a) and (3)(a)(intro.), 69.02(1)(a), (b)(intro.), (c) and (d)(intro.), 70.03(4)(b), 70.22(1)(g)(intro.) and (2), 80.44(2) table 2, 80.50(2)(f) and (3)(d), 80.54(1)(a), 81.02(2) and (3), 82.06(1)(note), 85.01(3) and (9), 88.02(4)(note) and (5)(note), 88.06(2)(note), 92.02(1) and (note), 92.06(1)(a), (1)(b), (2) and (3)(note), 92.08(1), 92.22(1)(b) and (note), 105.07(1)(b)16., 111.06, 113.01(1) and (3), 113.02, 118.02(2), 131.07(2)(a), 134.02(1m), 134.09(2)(c)(note), and 155.01(1), (3) and (4); to repeal and recreate ch. ATCP 50 Appendix E, and ch. ATCP 80 Appendix A; and to create ch. ATCP 1 subch. VII, ATCP 29.26(1)(b)(note), and 29.52(9)(c)(note); relating to small business enforcement discretion and technical changes to various rules.

Analysis Prepared by the Department of Agriculture,Trade and Consumer Protection

This rule makes technical changes to a number of current rules administered by the Department of Agriculture, Trade and Consumer Protection ("DATCP"), related to a variety of topics. This rule also describes the discretion that DATCP may exercise in the enforcement of regulations against small business.

Statutory Authority

Statutory Authority: ss. 93.07(1), 92.05(3)(c), 92.14(8), 93.50(2)(f), 94.72(13)(a), 95.197(2), 95.71(8), 97.09(4), 97.20(4), 97.22(8), 97.41(2) and (5), 98.03(2), 98.18(2), and 895.59, Stats.

Statutes Interpreted: ss. 92.05, 92.14, 94.72, 95.197, 95.71, 97.20, 97.22, 97.41, 98.03, 98.18, 93.50, and 895.59, Stats.

DATCP has broad authority under 93.07(1) to adopt rules needed to implement laws under its jurisdiction. Under s. 895.59, Stats.(created by 2003 Wisconsin Act 145), DATCP is required to adopt rules describing the discretion that it may exercise in enforcement of its regulations against small businesses. DATCP has specific authority, under the provisions cited above, to adopt rules related to each of the topics addressed by this rule.

Rule Content

Small Business Enforcement Discretion

Under s. 895.59, Stats. (created by 2003 Wisconsin Act 145), state agencies are required to adopt rules describing the discretion they may exercise when enforcing regulations against small businesses. This rule describes the discretion that DATCP may exercise when enforcing regulations against small businesses. DATCP already exercises enforcement discretion, as described in this rule.

Technical Changes to Current Rules

This rule makes the following minor technical changes to rules administered by DATCP:

- Conforms fertilizer tonnage fee (agricultural chemical cleanup surcharge) to the current statute. The department is already charging the (lower) statutory fee, not the obsolete (higher) fee that appears in the current rule (ATCP 40).
- Updates technical standards that are incorporated by reference in current commercial feed rules (ATCP 42). The updates refer to the latest edition (2006) of the official publication of the Association of American Feed Control Officials.
- Updates current standards for the professional certification of agricultural engineering practitioners. DATCP coordinated these revisions with the United States Department of Agriculture (NRCS) and county land conservation departments, including practitioners who serve federal, state and county conservation programs.
- Clarifies DATCP's meat holding order and condemnation authority (ATCP 55).
- Eliminates an inconsistency between rules related to the legal "shelf life" of smoked fish (one rule says 17 days, the other says 21 days). This rule makes the standard 21 days.
- Changes current dairy plant rules (ATCP 80) to make them consistent with current federal standards. This includes minor technical changes related to pasteurization standards, thermometers and temperature readings, as well as updates to technical standards incorporated by reference (ATCP 80 Appendix). The updates refer to the latest editions of the *3-A Sanitary Standards and Accepted Practices* published by the 3-A Sanitary Standards, Inc.
- Updates technical standards that are incorporated by reference in current weights and measures rules (ATCP 92). The updates refer to the latest editions (2006) of current weights and measures handbooks published by the National Institute of Standards and Technology.
- Clarifies that local weights and measures inspectors must be civil service employees (conforms rule to current statute).
- Eliminates minor obsolete accounting provisions in ATCP 105 related to the calculation of cigarette "cost" for purposes of the Unfair Sales Act ("minimum markup law").
- Clarifies the relationship between the home improvement code (ATCP 110) and the basement waterproofing code (ATCP 111), both of which apply to basement waterproofing services.
- Conforms car rental notice requirements (ATCP 118) to current statute.
- Clarifies prohibition against misleading charity claims in coupon book schemes (ATCP 131).

- Repeals current rules related to dairy cattle grades (ATCP 158), because the rules are obsolete and no longer used.
- Corrects typographical errors and cross-references, eliminates obsolete provisions, conforms rules to current statutes, creates clarifying notes, and makes other non-substantive drafting and organizational changes to current rules.

Pursuant to s. 227.21, Stats., DATCP has requested permission from the Attorney General and the Revisor of Statutes to incorporate updated technical standards by reference.

Fiscal Estimate

DATCP already exercises small business enforcement discretion, as described in this rule, so the effect will be minimal. Fines and forfeitures are paid to the state school fund, not DATCP. Other provisions of this rule will have no fiscal effect on DATCP or local units of government. A fiscal estimate is attached.

Business Impact

DATCP already exercises small business enforcement discretion, as described in this rule. The current exercise of discretion prevents unnecessary costs to small businesses. The codification of DATCP's current enforcement policy will not change that policy, or have a major additional impact on business. The other provisions of this rule will have no significant effect on business. A business impact analysis is attached.

Federal Regulations

Several of the technical changes in this rule will make DATCP rules consistent with current federal standards. There are no other federal regulations similar to this rule.

Surrounding State Programs

Surrounding states (Illinois, Indiana, Iowa, Michigan and Minnesota) do not have comparable rules, except that some use comparable technical standards.

Section 1. Chapter ATCP 1, Subchapter VII, is created to read:

Subchapter VII

Enforcement-discretion; small business

ATCP 1.40 Purpose. This subchapter describes, as required by s. 895.59, Stats., the discretion the department may exercise in the enforcement of rules against small businesses.

ATCP 1.41 Definitions. In this subchapter, "small business" has the meaning given in s. 895.59(1)(b), Stats.

ATCP 1.42 Exercise of discretion. (1) The department may exercise leniency in the enforcement of rules against small businesses, as compared to other regulated businesses, if all of the following apply:

- (a) The department has statutory authority to exercise discretion.
- (b) The exercise of discretion, in favor of small businesses, is not prohibited by s. 895.59

(2), Stats., or other applicable law.

NOTE: The department exercises enforcement discretion based on a wide variety of variable factors that may be relevant to each case.

(2) The department may consider relevant factors in its exercise of discretion under sub. (1), including any of the following that may be relevant:

(a) The nature and seriousness of the violation.

(b) The difficulty and cost of compliance for a small business, as compared to other businesses.

(c) The financial capacity of a small business, as compared to other businesses.

(d) The compliance options available, including options for achieving voluntary compliance.

(e) The nature, extent and seriousness of actual or potential harm to the public.

(f) The immediacy of potential harm, and the likelihood of continued harm if no action is taken.

(g) The willfulness of the violation, and the likelihood that the violation will continue if no action is taken.

(h) Past history of compliance or noncompliance by the small business.

(i) The level of public interest and concern.

(j) Whether the small business has had a reasonable opportunity to understand and comply with the rules.

(k) Fairness to the small business and other persons, including competitors and the public.

(L) Whether the small business has voluntarily disclosed the violation.

(3) An exercise of discretion under sub. (1) may include a decision to forego formal sanctions, or to seek reduced sanctions for a small business as compared to other businesses.

NOTE: Fines and civil forfeitures are determined and imposed by courts, not by the department.

Section 2. ATCP 13.01(2) is repealed.

Section 3. ATCP 13.01(3) to (7) are renumbered to (2) to (6):

Section 4. ATCP 13.02(1)(intro.) is amended to read:

ATCP 13.02(1)(intro.) Authority. Pursuant to s. 95.21 (9), stats., the department may approve, ~~upon recommendation of the council on local rabies control programs,~~ the rabies control program of a county, city, village or town. A local rabies control program shall include:

Section 5. ATCP 17.01(1)(c) is amended to read:

ATCP 17.01(1)(c) ~~Global positioning system~~ Geographic coordinates, if the location has no street address and no township, range and section numbers.

Section 6. ATCP 17.03(2)(note) is amended to read:

NOTE: For example, information that was required of license holders and was open to public inspection prior to the effective date of the livestock ~~facility~~ premises registration law, s. 95.51, Stats., remains open to public inspection. But premises registration information required for the first time under s. 95.51, Stats., or this chapter must be kept confidential.

Section 7. ATCP 17.03(4)(b) and (4)(b)(note) are amended to read:

ATCP 17.03(4)(b) The department may not disclose aggregate information under par. (a) that does any of the following, unless that information qualifies for disclosure under sub. (2) or (3):-

1. Discloses the street address, section number, ~~global positioning system~~ geographic coordinates of any premises, or the identity of any registrant.

2. Makes it possible to deduce with certainty the street address, section number, ~~global positioning system~~ or geographic coordinates of any premises, or the identity of any registrant.

NOTE: For example, the department may not disclose a detailed map that permits readers to deduce with certainty the street ~~addresses~~ address, section ~~numbers~~ number or ~~global positioning system~~ geographic coordinates of any premises, or the identities of registrants whose premises are portrayed by points on the map. However, the department may disclose less detailed maps.

Section 8. ATCP 29.26(1)(b)(note) is created to read:

NOTE: According to s. 94.715(2)(dm), Stats., school boards must ensure that persons making pesticide applications to public school grounds are certified under s. 94.705, Stats.

Section 9. ATCP 29.52(9)(c)(note) is created to read:

NOTE: According to s. 94.715(2)(g), Stats., school boards must ensure that warning signs are posted for pesticide applications to public school grounds.

Section 10. ATCP 40.06(2)(f) is amended to read:

ATCP 40.06(2)(f) An agricultural chemical cleanup surcharge of ~~86~~ 63 cents per ton.

Section 11. ATCP 42.06(3) is amended to read:

ATCP 42.06(3) Single-ingredient feeds. Product names for single-ingredient commercial feeds shall be consistent with the feed ingredient definitions specified in the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 12. ATCP 42.16(1)(b) is amended to read:

ATCP 42.16(1)(b) Paragraph (a) does not apply to a commercial feed which is defined as a single ingredient feed product by the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 13. ATCP 42.16(2)(b) is amended to read:

ATCP 42.16(2)(b) The official name of that ingredient as stated in the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 14. ATCP 42.32(2)(b) is amended to read:

ATCP 42.32(2)(b) The official name of that ingredient as stated in the ~~1998~~ 2006 official publication of the association of American feed control officials.

Section 15. ATCP 42.40(4)(b) is amended to read:

ATCP 42.40(4)(b) By a testing procedure published in the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 16. ATCP 42.44(6)(a) is amended to read:

ATCP 42.44(6)(a) The dog or cat food, when fed in recommended amounts, meets all

nutrient requirements established in applicable pet nutrient profiles specified in the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 17. ATCP 42.54(1)(a) is amended to read:

ATCP 42.54(1)(a) The non-protein nitrogen ingredients are identified in the ~~2004~~ 2006 official publication of the association of American feed control officials.

Section 18. ATCP 50, Appendix E is repealed and recreated to read:

**AGRICULTURAL ENGINEERING CERTIFICATION
APPENDIX E**

EMPLOYEE: OFFICE: Original Revised Revised
SIGNATURE: TITLE: DATE:
Supervisor
CONCURRED BY: TITLE: DATE:
DELEGATED BY: TITLE: DATE:
DATCP Agricultural Engineer
CERTIFIED BY: TITLE: DATE:

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS	UNITS	JOB CLASS	MAX APPROVAL LIMIT and CERTIFICATION RATING
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I	II	III	IV	V	PLNG	DESIGN	CONST
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560	ACCESS ROAD	GRADE	%	10	ALL				
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CULVERT	DRAINAGE AREA	ACRES	10	20	40	160	ALL	
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LIVESTOCK AND EQUIPMENT STREAM CROSSING	VELOCITY	F.P.S.	4	6	8	10	ALL	
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575	ANIMAL TRAILS AND WALKWAYS	GRADE	%	ALL				
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360	CLOSURE OF WASTE IMPOUNDMENT	NUMBER	EACH	ALL				
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362	DIVERSION	DRAINAGE AREA	ACRES	10	20	40	160	ALL
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432	DRY HYDRANT	WATER SOURCE	--	POND	POND	STREAM	ALL												
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LIFT (STATIC HEAD)	FEET	5	10	15	ALL														
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NOMINAL DIAMETER	INCHES	4	4	6	ALL														
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396	FISH PASSAGE	DAM REMOVAL	--	ALL															
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410	GRADE STABILIZATION STRUCTURE	EARTHEN EMBANKMENTS (HAZARD CLASS "a" ONLY)	DRAINAGE AREA	ACRES	20	80	320	640	2000(c)																		
350	SEDIMENT BASIN (EXCEPT FOR ANIMAL WASTE)																										
378	POND (EMBANKMENT)																										
587	STRUCTURE FOR WATER CONTROL																										
552	IRRIGATION REGULATING RESERVOIR																										

EFFECTIVE HEIGHT (a)	FEET	10	15	20	25	35													
STORAGE (b)	AC. FT.	5	15	30	50	85													
CONDUIT (SINGLE)	INCHES	12	18	24	36	48													
(STOR. VOL.)x (EFF. HT.)	--	500	1000	1500	2000	3000													

BOX DROP TO CULVERT	NET DROP	FEET	2*	3*	4*	4	6												
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WEIR CAPACITY	C.F.S.	100*	200*	300*	400	500	
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TOEWALLS	NET DROP		FEET	2*	3*	4*	3	4	
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WEIR CAPACITY	C.F.S.	100*	200*	300*	300	300	
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CHUTES	NET DROP		FEET	4	6	8	10	12	
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CAPACITY	C.F.S.	50	100	200	250	300	
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412	GRASSED WATERWAY	DRAINAGE AREA	ACRES	50	200	600	1300	ALL	
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561	HEAVY USE AREA PROTECTION	AREA	SQ. FT.	10000	30000	ALL			
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442 449	IRRIGATION SYSTEM, SPRINKLER IRRIGATION WATER MANAGEMENT	AREA IRRIGATED	ACRES	20	40	80	ALL		
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447	IRRIGATION SYSTEM, TAILWATER RECOVERY	PUMP CAPACITY	GPM	300	500	1000	ALL		
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430	IRRIGATION WATER CONVEYANCE AA (Aluminum) DD (Plastic)	CAPACITY (< 50 PSI)	GPM	500	1000	2500	5000		
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CAPACITY (50 PSI)	GPM	300	500	1500	3500		
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468	LINED WATER OR OUTLET	DESIGN CAPACITY (d)	C.F.S.	10	30	100	150	ALL	
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STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS			UNITS	JOB CLASS			MAX APPROVAL LIMIT		
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I	II	III	IV	V	PLNG	DESIGN	CONST
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634	MANURE TRANSFER		PUMPED			A.U.	100	300	ALL										
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GRAVITY	A.U.	100	300	ALL															
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FEET	150	250	400																
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RECEPTION TANK (e)	EACH	STAND DRAW	ALL																
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719	MILKING CENTER WASTEWATER TREATMENT SYSTEM		FREQUENT HAUL			EACH	ALL												
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RIDGE AND FURROW	EACH	ALL																	
CONSTRUCTED WETLAND	EACH	ALL																	
SUBSURFACE ABSORPTION	EACH	ALL																	

BUFFER	EACH	ALL																	
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500	OBSTRUCTION REMOVAL		OBSTRUCTION LOCATION			EACH	LAND	STREAM	ALL										
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	GPM	500	1000	1500	2000	3500			
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STATIC HEAD	Ft.	50	100	200	300	350			
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TURBINE

CAPACITY	GPM	500	1000	1500	2000	3000			
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STATIC HEAD	Ft.	50	100	200	350	500			
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568	RECREATION TRAIL AND WALKWAY	LENGTH	MILES	0.5	ALL								
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558	ROOF RUNOFF STRUCTURE	ROOF SIZE (EACH)	SQ. FT.	1500	300	ALL							
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350	SEDIMENT BASIN, LIVESTOCK	WALL HT. (STANDARD)	FEET	2*	4*	5*	6*	8*					
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WALL HT. (NON-STD.)	FEET	2	4	5	6	8			
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CONTRIBUTING AREA	SQ. FT.	10000	30000	ALL					
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725	SINKHOLE TREATMENT	NUMBER	EACH	ALL								
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572	SPOIL SPREADING	AREA	ACRES	0.5	ALL							
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574	SPRING DEVELOPMENT	ESTIMATED FLOW	G.P.M.	ALL														
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580	STREAMBANK AND SHORELINE PROTECTION	LAKESHORES	WAVE HEIGHT	FEET	0	0	1	2	3									
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STREAMBANK PROTECTION	CAPACITY (f)	C.F.S.	100	300	1000	2000	5000											
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VELOCITY (f)	F.P.S.	2	4	6	8	10												
CHANNEL MODIFICATION	FEET	100	300	500	1000	ALL												

FISH HABITAT	FEET	100	300	500	1000	ALL												
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606	SUBSURFACE DRAIN	PIPE SIZE	INCHES	4	6	8	12	ALL										
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607	SURFACE DRAINAGE; FIELD DITCH	DRAINAGE AREA	ACRES	10	20	50	100	ALL										
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608	SURFACE DRAINAGE, MAIN OR LATERAL	DESIGN CAPACITY	C.F.S.	2	4	6	8	10										
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		DESIGN VELOCITY	F.P.S.	100	200	300	5000	1000										
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600	TERRACE	GRADIENT	EMBANKMENT HEIGHT	FEET	2	3	ALL											
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UNDERGROUND OUTLET	EMBANKMENT HEIGHT	FEET	3	4	6	8	ALL											
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Employee: _____ Page 2 of 3

STD. CODE	PRACTICE	SUB-PRACTICE	CONTROLLING FACTORS			UNITS	JOB CLASS					MAX APPROVAL LIMIT	
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I	II	III	IV	V	PLNG	DESIGN	CONST
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620	UNDERGROUND OUTLET		PIPE SIZE	INCHES	4	6	8	12	ALL			
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313	WASTE STORAGE FACILITY	STRUCTURAL FACILITIES	DESIGN STORAGE VOLUME	CU. FT.	5000	25000	75000	150000	3000000			
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PREQUALIFIED (g)	EACH	ALL, subject to design capacity						
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WALL HT. (STANDARD)	FEET	2*	4*	6*	8*	10*			
WALL HT. (NON-STD.) (e)	FEET	2	4	6	8	10			

EARTHEN EMBANKMENT	EFFECTIVE HEIGHT (a)	FEET	10	15	20	25	ALL			
IN-PLACE EARTH POND	DESIGN CAPACITY	CU.FT.	60000	200000	500000	1M	2M			
CLAY LINER	DESIGN CAPACITY	CU.FT.	60000	200000	500000	1M	2M			
GEO-MEMBRANE & GEO-SYNTHETIC CLAY LINER	DESIGN CAPACITY	CU.FT.	60000	200000	500000	1M	2M			

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CONCRETE LINER	DESIGN CAPACITY	CU.FT.	60000	200000	500000	1M	2M						
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635	WASTEWATER TREATMENT STRIP	INFILTRATION	CONTRIBUTING AREA	SQ. FT.	5000	10000							
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OVERLAND	CONTRIBUTING AREA	SQ. FT.	5000	10000									
BUFFERS	CONTRIBUTING AREA	SQ. FT.	5000	10000	30000	ALL							

MILKING CENTER	VOLUME	G.P.D.	200	300									
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638	WATER AND SEDIMENT CONTROL BASIN	EMBANKMENT HEIGHT	FEET	5	10	15							
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STORAGE (b)	AC. FT.	5	10	15									
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642	WATER WELL	DIAMETER	INCHES	4	6	8	12	ALL					
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ESTIMATED DEPTH	FEET	--	100	200	300	ALL							
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614	WATERING FACILITY (4/02)	NUMBER	EACH	ALL									
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351	WELL DECOMMISSIONING	DRILLED WELL	ESTIMATED DEPTH	FEET	100	300	500	ALL					
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DRIVEN WELL POINT	ESTIMATED DEPTH	FEET	10	25	ALL								
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DUG WELL	EACH	ALL								
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657	WETLAND RESTORATION	SCRAPE	SURFACE AREA	ACRE	1/2	1	ALL							
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TILE BREAK	DRAIN DIAMETER	INCHES	6	12	ALL					
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DITCH PLUG	DEPTH	FEET	4	6	ALL					
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DRAINAGE AREA	ACRES	80	160	320	640	ALL			
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EMBANKMENT	EFFECTIVE HEIGHT (a)	FEET	4	6	10	ALL				
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DRAINAGE AREA	ACRES	20	40	80	160				
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STORAGE (b)	AC. FT.	5	15	30	50				
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*STANDARD DETAIL DRAWINGS

NOTES:

1. CERTIFICATION IS NOT GRANTED FOR PRACTICES NO SHOWN.
2. OTHER RESTRICTIONS MAY APPLY AS NOTED
3. TO OBTAIN COPIES OF THE ABOVE REFERENCED PRACTICE STANDARDS, SEE THE USDA-NRCS-WISCONSIN TECHNICAL GUIDE, OR APPENDIX E OF ATCP 50, WISCONSIN ADMINISTRATIVE CODE

FOOTNOTES

a. DIFFERENCE IN ELEVATION IN FEET BETWEEN THE AUXILIARY SPILLWAY CREST (TOP OF EMBANKMENT IF NO AUXILIARY SPILLWAY) AND THE LOWEST POINT IN THE CROSS SECTION TAKEN ALONG THE CENTERLINE OF THE EMBANKMENT

DISCHARGE.	b. STORAGE – TOTAL STORAGE CAPACITY AT TOP OF THE DAM IN ACRE-FEET.
	c. EFFECTIVE HEIGHT MUST BE LESS THAN 6 FEET
	d. LINED WATERWAY OR OUTLET (468) – THE JOB CLASS WILL BE BASED ON THE 10 YEAR 24 HOUR DURATION PEAK
CLASSIFIED.	e. THE MNTC DRAWING Nos. 5.E-33,001 AND 5.E-33,002 AND WISCONSIN STANDARD DRAWINGS IN THE 740 SERIES ARE AS NON-STANDARD DRAWINGS.
	f. MAXIMUM DESIGN VELOCITY, AND THE CHANNEL CAPACITY AT THE DESIGN VELOCITY.
	g. PREQUALIFIED STRUCTURES CAN BE FOUND IN CHAPTER 17 OF THE ENGINEERING FIELD HANDBOOK.

Employee: _____ Page 3 of 3

Section 19. ATCP 55.14(2)(a) is amended to read:

ATCP 55.14(2)(a) The department may issue a holding order to prohibit the sale or movement of any meat or meat food product if the department has reasonable grounds to suspect that the meat or meat food product is unwholesome, adulterated or misbranded, or otherwise fails to meet the standards or requirements of this chapter or ch. 97, Stats. The department may issue a holding order pending further examination or analysis to determine whether the meat or meat food product is unwholesome, adulterated or misbranded, or otherwise fails to meet the standards or requirements of this chapter or ch. 97, Stats.

Section 20. ATCP 55.14(3)(a)(intro.) is amended to read:

ATCP 55.14(3)(a)(intro.) If the department finds that meat or a meat food product is unwholesome, adulterated, ~~or~~ misbranded, not inspected and approved according to this chapter or s. 97.42, Stats., or not processed according to this chapter or s. 97.42, Stats., the department may order the owner or custodian to do any of the following:

Section 21. 69.02(1)(a), (b)(intro), (c), and (d)(intro) are amended to read:

ATCP 69.02(1)(a) Completed an 18-month cheesemaking ~~apprenticeship~~ internship under a licensed cheesemaker, including at least one month's experience in the complete process of cheesemaking.

(b)(intro.) Completed a 12-month cheesemaking ~~apprenticeship~~ internship under a licensed cheesemaker, including at least one month's experience in the complete process of cheesemaking, and complete at least one of the following:

(c) Completed a 6-month cheesemaking ~~apprenticeship~~ internship under a licensed cheesemaker, including at least one month's experience in the complete process of cheesemaking, and completed a 4-year dairy-related degree program at an accredited college or university.

(d)(intro.) Completed an ~~apprenticeship~~ internship under a licensed cheesemaker, including at least 240 hours experience in the complete process of cheesemaking, and completed department-approved courses in all the following:

Section 22. ATCP 70.03(4)(b) is amended to read:

ATCP 70.03(4)(b) The holder of a temporary license may not procure farm products from

producers, except as specifically authorized by the department in writing. The department may not authorize a food processing plant operator to procure farm products from producers unless the food processing plant operator complies with ~~§ 100.03~~ subch. VI of ch. 126, Stats.

Section 23. ATCP 70.03(4)(b)(note) is repealed.

Section 24. ATCP 70.22(1)(g)(intro.) is amended to read:

ATCP 70.22(1)(g)(intro.) The last date on which the smoked fish may be sold at retail, which shall be not more than ~~17~~ 21 days after the processing date under par. (f). This paragraph does not apply to any of the following:

Section 25. ATCP 70.22(2) is amended to read:

ATCP 70.22 (2) Smoked fish shall not be sold more than ~~17~~ 21 days after the date of processing unless the smoked fish are exempt under sub. (1)(g).

Section 26. ATCP 80.02(3)(e) is repealed.

Section 27. ATCP 80.44(2), table 2 is amended to read:

**TABLE 2
PASTEURIZATION REQUIREMENTS FOR
SELECTED DAIRY PRODUCTS**

Product Group	Batch Pasteurization	HTST Pasteurization
(a) Milk, skim milk, or buttermilk	145°F. (63°C.) for 30 minutes	161°F. (72°C.) for 15 seconds
(b) Cream and fluid dairy products having more than 10% milk-fat	150°F. (66°C.) for 30 minutes	166°F. (75°C.) for 15 seconds
(c) Cream for butter	165°F. (74°C.) for 30 minutes	185°F. (85°C.) for 15 seconds
(d) Condensed dairy products including condensed products in group (a) and blends	150°F. (66°C.) for 30 minutes	166°F. (75°C.) for 15 seconds

of those products

(e) High total solids products (>16%) ~~155°F. (69°C.)~~ 150°F. 166°F. (75°C.) for 15 (66°C.) for 30 minutes seconds

(f) Frozen dessert mixes 155°F. (69°C.) for 30 minutes 175°F. (80°C.) for 25 seconds or 180°F. (83°C.) for 15 seconds

(g) Egg nog 155°F. (69°C.) for 30 minutes 175°F. (80°C.) for 25 seconds or 180°F. (83°C.) for 15 seconds

(h) Process cheese 150°F. (66°C.) for 30 seconds -----

Section 28. ATCP 80.50(2)(f) is amended to read:

ATCP 80.50(2)(f) The temperature reading on the indicating thermometer at the start ~~and end~~ of the pasteurization holding period, and at a specific times time identified as points a point on the ~~recorder~~ temperature recording chart.

Section 29. ATCP 80.50(3)(d) is amended to read:

ATCP 80.50(3)(d) The temperature reading on the indicating thermometer at the start ~~and end~~ of each pasteurization run, and at a specific times time identified as points a point on the ~~controller~~ temperature recording chart.

Section 30. ATCP 80.54(1)(a) is amended to read:

ATCP 80.54(1)(a) Records related to milk receipts and producer payrolls, as required by s. ATCP ~~100.76~~ 100.32(1). Records under this paragraph shall include milk collection records received from milk haulers under s. ATCP 82.10(10). Records under this paragraph shall be retained for at least 3 years.

Section 31. ATCP 80.54(1)(a)(note) is repealed

Section 32. ATCP 80, Appendix A is repealed and recreated to read:

**Chapter ATCP 80
APPENDIX A**

3-A SANITARY STANDARDS AND ACCEPTED PRACTICES

The following 3-A standards and 3-A accepted practices establish criteria for the sanitary construction and operation of dairy handling and processing equipment. These standards are published by the "3-A Sanitary Standards, Inc., 1451 Dolley Madison Boulevard, Suite 210, McLean, VA 22101-3850, website www.3-A.org, Telephone: (703) 790-0295, Fax: (703) 761-6284. Copies are on file with the department and the revisor of statutes. Copies may be obtained from "3-A Sanitary Standards, Inc. Online Store" at <http://www.techstreet.com>.

You may also search, order and download standards (in PDF format) by visiting <http://www.3-A.org>.

3-A SANITARY STANDARDS

<u>Doc. No.</u>	<u>Title (3-A Sanitary Standards for:)</u>	<u>Effective</u>
01-08	Storage Tanks	11/2001
02-09	Centrifugal and Positive Rotary Pumps	11/1996
04-04	Homogenizers and Reciprocating Pumps	11/1996
05-15	Stainless Steel Automotive Transportation Tanks for Bulk Delivery and/or Farm Pick-Up Service	11/2002
10-04	Milk and Milk Products Filters Using Single Service Filter Media	11/2000
11-06	Plate Type Heat Exchangers	11/2001
12-07	Tubular Heat Exchangers	11/2003
13-10	Farm Milk Cooling and Holding Tanks	11/2003

16-05	Milk and Milk Products Evaporators and Vacuum Pans	8/1997
17-10	Formers, Fillers, and Sealers of Containers for Fluid Products	11/2002
18-03	Multiple-Use Rubber and Rubber-Like Materials Used as Product Contact Surfaces	8/1999
19-05	Batch and Continuous Freezers for Frozen Foods	11/1999
20-23	Multiple-Use Plastic Materials Used as Product Contact Surfaces	11/2004
21-00	Centrifugal Separators and Clarifiers	11/2002
22-08	Silo-Type Storage Tanks	11/2004
23-04	Equipment for Packaging Viscous Products	11/2002
24-02	Non-Coil Type Batch Pasteurizers	11/1989
25-03	Non-Coil Type Batch Processors	11/2002
26-04	Sifters for Dry Products	11/2001
27-05	Equipment for Packaging Dry Products	11/2002

28-03 Flow Meters	11/1995
29-02 Air Eliminators	11/2000
30-01 Farm Milk Storage Tanks	9/1984
31-03 Scraped Surface Heat Exchangers	11/2000
32-02 Uninsulated Tanks	8/1994
33-01 Polished Metal Tubing	11/1994
34-02 Portable Bins for Dry Products	09/1992
35-01 Blending Equipment	11/2003
36-01 Inline Rotor-Stator Mixers	11/2003
38-00 Cottage Cheese Vats	8/1997
39-01 Pneumatic Conveyors for Dry Products	11/2003
40-02 Bag Collectors	11/2002
41-01 Mechanical Conveyors for Dry Products	11/1996
42-01 In-Line Strainers	11/1997

43-00 Wet Collectors for Dry Products	9/1997
44-03 Diaphragm Pumps	11/2001
45-02 Crossflow Membrane Modules	11/2003
46-03 Refractometers and Energy-Absorbing Optical Sensors	11/2002
47-00 Centrifugal and Positive Rotary Pumps for Pumping Cleaning and Sanitizing Solutions	11/1996
49-01 Air Driven Sonic Horns for Dry Products	11/2001
50-01 Level Sensing Devices for Dry Products	11/2001
51-01 Plug-Type Valves	11/1998
52-02 Plastic Plug-Type Valves	11/1998
53-02 Compression-Type Valves	01/2002
54-02 Diaphragm-Type Valves	11/1997
55-01 Boot Seal-Type Valves	11/1996
56-00 Inlet and Outlet Leak-Protector Plug-Type Valves	5/1993

57-01 Tank Outlet Valves	11/1996
58-00 Vacuum Breakers and Check Valves	6/1992
59-00 Automatic Positive Displacement Samplers	11/1993
60-00 Rupture Discs	9/1983
61-00 Steam Injection Heaters	11/1994
62-01 Hose Assemblies	11/1996
63-03 Sanitary Fittings	11/2002
64-00 Pressure Reducing and Back Pressure Regulating Valves	11/1993
65-00 Sight and/or Light Windows and Sight Indicators	11/1994
66-00 Caged-Ball Valves	11/1995
68-00 Ball-Type Valves	11/1996
70-01 Italian-Type Pasta Filata Style Cheese Cookers	11/2002
71-01 Italian-Type Pasta Filata Style Cheese Moulders	11/2002

72-01	Italian-Type Pasta Filata Style Moulded Cheese Chillers	11/2002
73-00	Shear Mixers, Mixers, and Agitators	11/1996
74-02	Sensors and Sensor Fittings and Connections	11/2002
75-00	Belt-Type Feeders	11/1998
78-01	Spray Devices to Remain in Place	11/2003
81-00	Auger-Type Feeders	11/1998
82-00	Pulsation Dampening Devices	11/2002
83-00	Enclosed Cheese Vats and Tables	11/2003
84-00	Personnel Access Ports for Wet Applications	11/2003
85-00	Double-Seat Mixproof Valves	11/2004

3-A ACCEPTED PRACTICES

<u>Doc. No.</u>	<u>Title (3-A Accepted Practices for:)</u>	<u>Effective</u>
603-06	Sanitary Construction, Installation, Testing, and Operation of High-Temperature Short-Time and Higher-Heat Shorter-Time Pasteurizer Systems	12/1992

604- 05	Supplying Air Under Pressure for Contact with Product or Product Contact Surfaces	11/2004
605- 04	Permanently Installed Product and Solution Pipelines and Cleaning Systems	8/1994
606- 05	Design, Fabrication, and Installation of Milking and Milk Handling Equipment	11/2002
607- 05	Milk and Milk Products Spray Drying Systems	11/2004
608- 02	Instantizing Systems	11/2001
609- 03	Method of Producing Steam of Culinary Quality	11/2004
610- 01	Sanitary Construction, Installation, and Cleaning of Crossflow Membrane Processing Systems	11/2003
611- 00	Farm Milk Cooling and Storage Systems	11/1994

SECTION 33. ATCP 81.02(2) and (3) are amended to read:

ATCP 81.02(2) License application. Application for a biennial cheese grader license shall be made on a form provided by the department. The application shall be accompanied by ~~each applicable~~ the fee ~~and surcharge~~ required under (3). An application shall include all of the information required under this section for licensing purposes.

(3) License fee. A person applying for a license under sub. (1) shall pay ~~an annual~~ a license fee of \$60.

Section 34. ATCP 82.06(1)(note) is amended to read:

NOTE: Copies of the "3-A Standards" are on file with the department and the revisor of statutes. Copies may be purchased from the ~~International Association of Milk, Food and Environmental Sanitarians~~ International Association for Food Protection, 6200 Aurora Avenue, Suite 200 W., Des Moines, IA 50322.

Section 35. ATCP 85.01(3) is amended to read:

ATCP 85.01(3) "Butter" ~~means the dairy product defined~~ has the meaning given in s. 97.01+ (12) 97.01(1), Stats.

Section 36. ATCP 85.01(9) is amended to read:

ATCP 85.01(9) "Milk" ~~means the dairy product defined~~ has the meaning given in s. 97.01(13) 97.01(10)(a), Stats.

Section 37. ATCP 88.02(4)(note) is amended to read:

NOTE: The "List of Proprietary Substances and Nonfood Compounds," published semiannually by the United States department of agriculture, is on file with the department and may be obtained from the United States department of agriculture, agricultural marketing service, poultry ~~division, grading branch, 100 stockyards road, room 209, South St. Paul, MN 55075~~ programs, grading branch, 1400 Independence Avenue, S.W., Room 3938-South Building, Washington, D.C. 20250, STOP 0256.

Section 38. ATCP 88.02(5)(note) is amended to read:

NOTE: The "List of Proprietary Substances and Nonfood Compounds," published semiannually by the United States department of agriculture, is on file with the department and may be obtained from the United States department of agriculture, agricultural marketing service, poultry ~~division, grading branch, 100 stockyards road, room 209, South St. Paul, MN 55075~~ programs, grading branch, 1400 Independence Avenue, S.W., Room 3938-South Building, Washington, D.C. 20250, STOP 0256.

Section 39. ATCP 88.06(2)(note) is amended to read:

NOTE: United States consumer grades and sizes are described in "United States Standards, Grades, and Weight Classes for Shell Eggs" under ~~title 7, code of federal regulations part 56, subpart C-7 CFR 56 (c).~~ A copy may be purchased from the United States department of agriculture, agricultural marketing service, poultry ~~division, grading branch, room 209, 100 stockyards road, South St. Paul, MN 55075~~ programs, grading branch, 1400 Independence Avenue, S.W., Room 3938-South Building, Washington, D.C. 20250, STOP 0256.

Section 40. ATCP 92.02(1) is amended to read:

ATCP 92.02(1) Except as provided in this chapter, weighing and measuring devices shall comply with applicable specifications, tolerances and other technical requirements set forth in the national institute of standards and technology handbook 44 (specification, tolerances and other technical requirements for weighing and measuring devices), ~~2004~~ 2006 edition.

Section 41. ATCP 92.02(1)(note) is amended to read:

NOTE: See s. 98.03 (2), Stats. The current edition of the National Institute of Standards and Technology Handbook 44 (Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices) is on file with the department and the revisor of statutes.

opies may be purchased from the U.S. ~~government printing office Washington, D.C. 20402-9325~~ Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

Section 42. ATCP 92.06(1)(a) is amended to read:

ATCP 92.06(1)(a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), ~~2004~~ 2006 edition.

Section 43. ATCP 92.06(1)(b) is amended to read:

ATCP 92.06(1)(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), ~~2003~~ 2005 edition.

Section 44. ATCP 92.06(2) is amended to read:

ATCP 92.06(2) Price verification systems. Inspections of price verification systems shall comply with section 7 "test procedures" from the chapter titled "Examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), ~~2004~~ 2006 edition.

Section 45. ATCP 92.06(3)(note) is amended to read:

NOTE: The standards incorporated by reference in subs. (1) and (2) are on file with the department and the revisor of statutes. Copies may be ~~obtained~~ purchased from the U.S. Government Printing Office, ~~Stop SSOP, Washington, D.C. 20402-0001~~ Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-754.

Section 46. ATCP 92.08(1) is amended to read:

ATCP 92.08(1) Hiring. A municipality that has a weights and measures program under s. 98.04, Stats., shall hire its inspectors from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. ~~A municipality may hire or contract with an inspector who is not a permanent civil service employee, provided that an open recruitment or bidding process is used to recruit, evaluate or certify the qualifications of prospective inspectors.~~

Section 47. ATCP 92.22(1)(b) is amended to read:

ATCP 92.22(1)(b) Comply with applicable requirements contained in the national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), ~~2004~~ 2006 edition.

Section 48. ATCP 92.22(1)(b)(note) is amended to read:

NOTE: The national institute of standards and technology handbook 44, ~~2004~~ 2006 edition, is on file with the department and the revisor of statutes. You may purchase copies of this handbook from the U.S. Government Printing Office, ~~Stop SSOP, Washington, D.C. 20402-0001~~ Superintendent of Document Sales, P.O. Box 371954, Pittsburgh, PA 15250-7954.

Section 49. ATCP 105.07(1)(b)16. is amended to read:

ATCP 105.07(1)(b)16. Salaries, fringe benefits and other remuneration, including officers' salaries and payroll taxes, except as allocated under subs. (2)(b)13. and (3)(b)1. and 2.a. ~~If officers or other management personnel receive no remuneration or token remuneration, a value~~

~~shall be placed on their services at a rate no lower than the average labor rate paid in Wisconsin by the "Food and Kindred Products Industry", reported by the Wisconsin department of workforce development as part of its published earnings and hours data.~~

Section 50. ATCP 111.06 is amended to read:

ATCP 111.06 Interpretation. A seller under this chapter is also a seller under s. ATCP ~~110.01(4)~~ 110.01(5) and is subject to ch. ATCP 110 ~~home improvement trade practice rules~~. In the event of any conflict between this chapter and ch. ATCP 110, ~~the provisions of ch. ATCP 111~~ such that a seller cannot comply with one chapter without violating the other, this chapter shall prevail.

Section 51. ATCP 113.01(1) is amended to read:

ATCP 113.01(1) To state or otherwise represent that the gasoline has a specified octane value or rating when such value or rating has been determined by a test method other than one which is recognized by the American Society for Testing Materials International as standard for the industry.

Section 52. ATCP 113.01(3) is amended to read:

ATCP 113.01(3) To use any statement, design or device which may induce prospective purchasers to believe that such gasoline is of greater value for motor car use because it contains high octane value components without clearly stating the octane value or rating of the total product advertised, as determined by a method which is recognized by the American Society for Testing Materials International as standard for the industry.

Section 53. ATCP 113.02 is amended to read:

ATCP 113.02 Test methods, standards. The test methods prescribed in s. ATCP 113.01 (1) and (3) are set forth in the book "ASTM Manual for Rating Motor Fuels by Motor and Research Methods", published 1956, copies of which are on file at the offices of the state department of agriculture, trade and consumer protection, ~~secretary of state and revisor of statutes, and which may be obtained from American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania.~~ International, 100 Barr Harbor Dr., P.O. Box C700, West, Conshohocken, PA 19428-2959.

Section 54. ATCP 118.02(2) is amended to read:

ATCP 118.02(2) Rental companies that offer or sell a damage waiver shall provide each renter a written notice having the following form and content. The rental company shall provide the notice to the renter as part of the rental agreement, or as a separate document, without other text or markings, before the renter enters into a rental agreement. If a separate document is used, The the rental company shall give ~~the~~ each renter one complete copy of the notice signed by ~~the~~ that renter and shall retain one complete signed copy with the company's copy of the rental agreement for a period of six years. The rental company may retain its copy in photographic or electronic form. A rental company that retains its copy in photographic or electronic form shall print that copy for the department upon request. The notice shall:

(a) Be printed ~~on the face of a single page 8 1/2 by 11 inches in size,~~ with text in 11-point type, except that title and headings shall be capitalized and in 13-point type bold face. If a

separate document is used, it shall be printed on paper 8 1/2 by 11 inches in size.

(b) Contain the following information in the following format.

NOTICE ABOUT LIABILITY FOR DAMAGE TO THE RENTAL CAR

The State of Wisconsin requires us to provide the following information about your liability for damage to a rental car and the purchase of a damage waiver.

LIABILITY FOR DAMAGE TO THE RENTAL CAR

The rental agreement makes you and any authorized driver liable for any damage to the rental car caused by an accident, or by intentional, reckless or wanton misconduct, or by theft that you may have intentionally caused. Total liability for any damage is limited to:

- 1) reasonable repair costs, less discounts available to us, or the fair market value of the car, whichever is less, and
- 2) actual and reasonable towing costs, and ~~up to two days~~ for storage costs during the period before you notify the rental company of the damage to the vehicle or for 14 days after the damage occurs, whichever period is shorter.

LIABILITY FOR DAMAGE AFTER THE RENTAL CAR HAS BEEN STOLEN

If a person who drives the rental car without your authorization causes damage to the car, you may be liable for the damage as though you or an authorized person was driving the car unless you do all of the following:

- 1) Refrain from leaving the ignition key in the car when you are not in the car.
- 2) Always keep the ignition key in your possession.
- 3) Immediately report to the local police if you learn the car has been stolen, or that an unauthorized person is driving the car.
- 4) Cooperate fully with the local police by providing any information you know that may be helpful.

INSURANCE OR CREDIT CARD COVERAGE

Liability for any damage may be covered by your personal insurance policy or credit card agreement. Check your insurance policy or credit card agreement about coverage.

DAMAGE WAIVER COVERAGE

A damage waiver is **not** insurance coverage. If you purchase a damage waiver for _____ per day, we will waive our right to hold you or any authorized driver liable for damage. Even if you buy a damage waiver, you and any authorized driver will remain liable for damage if any of the following apply:

- 1) ~~The damage is caused by you; You cause, or any authorized driver; causes, the damage intentionally or by reckless or wanton misconduct;~~
- 2) The damage occurs while you, or any authorized driver, operates the car in this state while under the influence of an intoxicant or other drug, as described by the laws of this state.
- 3) The damage occurs while you, or any authorized driver, operates the car in another state while under the influence of an intoxicant or other drug, as described by the laws of that state.
- 4) The damage occurs while you, or any authorized driver, is engaged in a race, speed, or endurance contest.

5) The damage occurs while you or any authorized driver is using, or has directed another to use, the car in the commission of a misdemeanor, or a felony, as defined by s. 939.60, Stats.

6) The damage occurs while you are using, or any authorized driver is using, ~~use~~ the car to carry persons or property for hire.

7) The damage occurs while you are using, or any authorized driver is using, the car outside the United States and Canada, ~~unless use outside of these countries is~~ except as permitted under the rental agreement.

8) The damage occurs while the car is operated on a surface not intended for use by private passenger vehicles.

9) You provide us misleading or false information in order to rent the car, which causes us to rent you the car when we would not have otherwise done so, or on terms to which we would not have otherwise agreed.

10) You, or an authorized driver who was operating the car when an accident occurred, fail to promptly report, to us and the police, the accident resulting in damage to the car.

11) The damage is caused by an unauthorized driver if you did not report a theft to the police within 24 hours after you learned the unauthorized driver took possession of the car, did not cooperate with the police in providing information about the theft, or left the ignition key in the car at the time of the theft.

NOTICE OF RIGHT TO INSPECT DAMAGE

If the car is damaged, we may not collect any amount for the damage unless you, or an authorized driver against whom we claim liability, have been promptly notified of your and your insurers' right to inspect the unrepaired car within two working days after we were notified of the damage. If you request, we must also give you a ~~copies~~ copy of two estimates any estimate we have obtained from a repair ~~shops~~ shop regarding any damage claim. Within 2 working days after receiving that estimate, you may request a second estimate from a competing repair shop and we must give you a copy of the second estimate.

COMPLAINTS

If you have any complaints about our attempt to hold you liable for damages or would like a copy of the state law that fully sets forth your rights and obligations, contact:

Wisconsin Consumer Protection Bureau

P.O. Box 8911, Madison, WI 53708-8911

608-224-4960 (Madison area) or toll-free 1-800-422-7128

Date: _____ Renter's Signature _____

Section 55. ATCP 131.07(2)(a) is amended to read:

ATCP 131.07(2)(a) That proceeds from the sale of any coupon will be donated to any charity, civic or religious group, or other nonprofit organization unless such representation is true, and the amount to be donated is disclosed ~~as required by s. 100.18 (4), Stats.~~ in one of the following forms:

1. The minimum amount stated in dollars.
2. The minimum percentage of the gross income.

3. The minimum percentage of the net income.

Section 56. ATCP 134.02(1m) is amended to read:

ATCP 134.02(1m) "Consumer credit report" has the meaning given for "consumer report" in 15 USC 1681a(d).

Section 57. ATCP 134.09(2)(c)(note) is amended to read:

NOTE: The separate written document under par. (b) (c) may be pre-printed.

Section 58. ATCP 155.01(1) is amended to read:

ATCP 155.01(1) "Contractor" ~~has the meaning specified~~ means a vegetable contractor as defined in s. ~~100.03(1)(f)~~ 126.55 (14), Stats.

Section 59. ATCP 155.01(1)(note) is repealed.

Section 60. ATCP 155.01(3) is amended to read:

ATCP 155.01(3) "Procurement contract" ~~has the meaning specified~~ means a vegetable procurement contract as defined in s. ~~100.03(1)(vm)~~ 126.55 (15), Stats.

Section 61. ATCP 155.01(3)(note) is repealed.

Section 62. ATCP 155.01(4) is amended to read:

ATCP 155.01(4) "Producer" ~~has the meaning specified~~ means a vegetable producer as defined in s. ~~100.03(1)(w)~~ 126.55 (16), Stats.

Section 63. ATCP 155.01(4)(note) is repealed.

Section 64. ch. ATCP 158 is repealed.

Effective date and initial applicability: This rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22 (2) (intro), Stats.

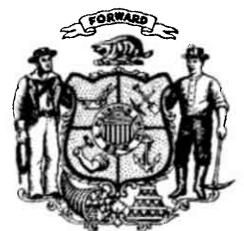
Dated this _____ day of September, 2006.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen,
Secretary



WISCONSIN STATE LEGISLATURE



CR02-141

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Rules Clearinghouse No. 02-141

DATCP Docket No. 99-R-10

**ORDER OF THE STATE OF WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING AND AMENDING RULES**

The state of Wisconsin department of agriculture, trade and consumer protection adopts the following order to repeal ATCP 92.01(8) and 92.05(title); to renumber ATCP 92.01(1), 92.03(1) to (8) and (note), and 92.05(1) to (4); to renumber and amend 92.03(title); to amend ATCP 90.01(4), 92.01(5) and 92.02(1); to repeal and recreate ATCP 91.01(1), ATCP 92 (title), (note) and 92.02(2); and to create ATCP 92 subchapter I (title), 92.01(1), (1m), (1s), (2g), (2r), and (11) to (13), 92.02(2)(b)(note), subchapters II and III, subchapter IV (title), 92.31 and subchapter V (title); relating to weights and measures.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 93.15(1), 98.03(2), 98.16(3), 98.18(1h) and (2) and 100.20(2), Stats.

Statutes Interpreted: ss. 93.15, 98.02 to 98.05, 98.16, 98.18 and 100.20, Stats.

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers Wisconsin's weights and measures program to ensure that commercial weights and measures are accurate. DATCP also supervises municipal weights and measures inspection programs. DATCP licenses vehicle scale operators and weights and measures service companies. DATCP has adopted rules, under ch. ATCP 92, Wis. Adm. Code, related to commercial weighing and measuring devices.

This rule modifies current weights and measures rules, and creates new requirements. Among other things, this rule does the following:

- Establishes uniform weights and measures inspection procedures, to promote uniform statewide application of weights and measures laws. The uniform procedures apply to state and municipal weights and measures programs. The uniform procedures are based on standards developed by the National Institute of Standards and Technology (NIST).
- Requires state inspectors, municipal inspectors and private service companies to use testing equipment and weight standards that comply with NIST specifications, tolerances and regulations.
- Requires municipal inspectors to attend training on NIST procedures and related subjects.
- Clarifies licensing requirements for private weights and measures service companies, and increases annual license fees.
- Increases annual license fees for vehicle scale operators.
- Establishes a technician certification program for technicians employed by private weights and measures service companies. Technicians must pass an open-book examination developed by the Central Weights and Measures Association. There is an examination fee of \$25.

State and Municipal Programs

DATCP enforces state weights and measures laws. Under s. 98.04, Stats., municipalities with a population of more than 5,000 must establish their own programs or contract with DATCP for weights and measures services. Currently, 18 municipalities have their own programs.

This rule establishes minimum standards for state and municipal weights and measures programs in order to ensure reasonable statewide uniformity. This rule includes the following new requirements:

- **Uniform Inspection Procedures.** Under this rule, state and municipal programs must inspect packaged commodities, liquid measuring devices, scales, pricing systems, timing devices and linear measuring devices. (Currently, some municipal programs do not perform some of these inspections.) State and municipal inspectors must follow uniform testing and sampling procedures spelled out in state law and applicable NIST handbooks.
- **Inspection Equipment.** This rule requires inspectors to use test equipment and weight standards that meet NIST requirements. DATCP or a NIST-certified laboratory must test and certify test equipment and weight standards at least once every 2 years. DATCP may set a different testing interval for specialized equipment or weight standards.
- **Training Requirement.** Under this rule, state and municipal inspectors must participate in DATCP-sponsored training to stay current with changing weights and measures standards and procedures.
- **Sealing Procedure.** This rule clarifies the procedure for “sealing” a weighing or measuring device after the device is inspected.
- **Reporting Requirements.** This rule clarifies current municipal reporting requirements. Municipalities are currently required to submit annual reports to DATCP. DATCP uses these reports to help identify weights and measures compliance problems, priorities and program needs.

Weights and Measures Service Companies

DATCP currently licenses weights and measures service companies under s. 98.18, Stats. This rule increases license fees and establishes minimum licensing standards.

- **License Required**

This rule clarifies that a weights and measures service company must hold a DATCP license to install, service, test or calibrate commercial weighing or measuring devices.

A service company must apply for a license and pay required fees, according to this rule. DATCP may deny, suspend or revoke a license for reasons specified in this rule.

- **License Fee**

Under current law, weights and measures service companies pay the following annual license fees:

- \$100 for companies that service only their own commercial weighing and measuring devices.
- \$200 for companies that service weighing and measuring devices “for hire.” A “for hire”

company must also pay a supplementary license fee of \$50 for each additional business location, if the company operates from more than one location.

This rule increases license fees for service companies. This rule establishes an annual fee of \$250 for every company. A “for hire” service company must pay a supplementary fee of \$75 for each additional business location, if the company operates from more than one location.

- ***Technician Certification***

This rule creates a certification program for weights and measures service technicians. A weights and measures service company is responsible for having its technicians certified. Under this rule, a technician may not do any of the following unless the technician is certified:

- Restore to service a weighing or measuring device rejected by a state or municipal inspector.
- Place a new commercial weighing or measuring device in service.
- Verify the accuracy of a commercial weighing or measuring device.

A technician must be certified in one or more appropriate categories, based on the types of devices that the technician services. The Central Weights and Measures Association (CWMA) has developed certification exams that test a person's working knowledge of NIST standards and procedures (NIST Handbook 44) in various categories. Six Midwestern states have adopted the CWMA technician certification program. Technicians who successfully complete the exam are recognized as "certified technicians" in participating states.

This rule requires certified technicians to pass the CWMA technician certification exam (or another exam approved by DATCP) in each applicable category once every 5 years. There is a \$25 exam fee. The Wisconsin Department of Employment Relations, City and County Services Office, will administer the exam for DATCP. Exams are administered at locations statewide.

- ***Equipment Testing Procedures***

Under this rule, weights and measures service companies must follow NIST testing procedures when they test weighing and measuring devices. Service companies must affix security seals to devices placed in service. Security seals must identify the name of the service company and technician that serviced the device.

This rule requires service companies to use testing equipment and standards that meet NIST requirements. Equipment and standards must be tested and certified at least once every 2 years by DATCP's metrology laboratory, or by a NIST-certified laboratory.

- ***Recordkeeping and Reporting.***

Under this rule, a weights and measures service company must prepare a written report whenever the company installs, services, tests or calibrates a weighing or measuring device. The technician who does the work must prepare and sign the report. The report must include relevant information required by this rule.

Within 10 business days after it completes the work, the service company must give a copy of the report to the owner or operator of the device. If the service company restores a "rejected" device to service, the service company must also give a copy to DATCP or to the municipality that rejected the device. The service company must keep a copy of the report for at least 2 years.

- *Prohibited Practices.* No person who sells, installs, services, tests or calibrates a weighing or measuring device may do any of the following:
 - Cause the device to be incorrect.
 - Misrepresent that the device is correct.
 - Misrepresent, directly or by implication, that the person has determined whether the device is correct.
 - Fail to comply with this chapter or ch. 98, Stats.
 - Remove any reject tag or mark applied by a state or municipal inspector unless the person first

does one of the following:

* Adjusts the device to make it correct.

* Obtains express authorization from DATCP or, if the reject tag or mark was applied by a municipal inspector, from that municipality.

Vehicle Scales

DATCP currently licenses vehicle scale operators under s. 98.16, Stats. The current license fee is \$60 per year per vehicle scale. This rule increases the license fee to \$100 per year per vehicle scale.

Standards Incorporated by Reference

Pursuant to s. 227.21, Stats., DATCP has requested and received permission from the attorney general and the revisor of statutes to incorporate the following standards by reference in this rule:

- The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2003 edition.
- The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2003 edition.
- Section 7 "test procedures" from the chapter titled "examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2003 edition.

Copies of these standards are on file with DATCP, the secretary of state and the revisor of statutes.

Section 1. ATCP 90.01(4) is amended to read:

ATCP 90.01(4) "Commodity" means any product or commodity that is sold, offered for sale, or held or distributed for sale in this state. "Commodity" includes ~~but is not limited to~~, a consumer commodity.

Section 2. ATCP 91.01(1) is repealed and recreated to read:

ATCP 91.01(1) "Commodity" means any product or commodity that is sold, offered for sale, or held or distributed for sale in this state. "Commodity" includes a consumer commodity as defined in s. ATCP 90.01(5).

Section 3. Chapter ATCP 92(title) is repealed and recreated to read:

CHAPTER ATCP 92 WEIGHTS AND MEASURES

Section 4. Chapter ATCP 92 (note) is repealed and recreated to read:

NOTE: This chapter is adopted under authority of ss. 93.07(1), 93.15(1), 98.03(2), 98.16(3), 98.18(1h) and (2) and 100.20(2), Stats. Violations of this chapter are subject to the penalties and remedies provided under ss. 98.26, 100.20(5) and (6) and 100.26(3) and (6), Stats.

Section 5. Chapter ATCP 92 subchapter I (title), inserted prior to s. ATCP 92.01, is created to read:

SUBCHAPTER I GENERAL PROVISIONS

Section 6. ATCP 92.01(1) is renumbered ATCP 92.01(1e).

Section 7. ATCP 92.01(1), (1m), (1s), (2g) and (2r) are created to read:

ATCP 92.01(1) "Commodity" means any product or commodity that is sold, offered for sale, or held or distributed for sale in this state. "Commodity" includes a consumer commodity.

(1m) "Consumer commodity" has the meaning given in s. ATCP 90.01(5).

(1s) "Correct," as applied to a weighing or measuring device, means that the weighing or measuring device complies with this chapter and ch. 98, Stats.

(2g) "Individual" means a natural person.

(2r) "Inspector" means any of the following:

(a) A department weights and measures inspector.

(b) A municipal weights and measures sealer or inspector under s. 98.04(1), Stats.

Section 8. ATCP 92.01(5) is amended to read:

ATCP 92.01(5) "Person" means an individual, corporation, partnership, ~~firm or association~~ cooperative association, limited liability company, or other legal organization or entity.

Section 9. ATCP 92.01(8) is repealed.

Section 10. ATCP 92.01(11) to (13) are created to read:

ATCP 92.01(11) "Weighing or measuring device" means any device used to determine the weight or measure of a commodity, for commercial purposes. "Weighing or measuring device" includes a scale, meter, measuring device or timing device that affects the determination of weight or measure.

(12) "Weights and measures" has the meaning given in s. 98.01(7), Stats.

(13) "Weights and measures service company" means a person that is required to be licensed under s. ATCP 92.20(1).

Section 11. ATCP 92.02(1) is amended to read:

ATCP 92.02(1) Except as provided in this chapter, ~~commercial~~ weighing and measuring devices shall comply with ~~the~~ applicable specifications, tolerances and other technical requirements set forth in ~~the current edition of~~ the national institute of standards and technology handbook 44 (specifications, tolerances and other technical requirements for weighing and measuring devices), 2003 edition.

Section 12. ATCP 92.02(2) is repealed and recreated to read:

ATCP 92.02(2) Except as provided in sub. (3), no person may sell, offer for sale, use or distribute for use in this state a weighing or measuring device unless the device is a type or model certified by one of the following:

(a) The chief of the office of weights and measures of the national institute of standards and technology.

(b) The national type evaluation program administered by the National Conference on Weights and Measures.

Section 13. ATCP 92.02(2)(b)(note) is created to read:

NOTE: Devices certified under par. (b) are commonly known as "NTEP-approved" devices.

Section 14. ATCP 92.03(title) is renumbered 92.30(title) and amended to read:

ATCP 92.30 Vehicle and livestock scales; permits and construction requirements.

Section 15. ATCP 92.03(1) to (8) and (note) are renumbered 92.30(1) to (8) and (note).

Section 16. ATCP 92.05(title) is repealed.

Section 17. ATCP 92.05(1) to (4) are renumbered ATCP 92.40 to 92.43.

Section 18. Chapter ATCP 92 subchapter II is created to read:

SUBCHAPTER II

STATE AND MUNICIPAL PROGRAMS

ATCP 92.04 Municipal program components. A municipal weights and measures program under s. 98.04, Stats., shall inspect and test all the following for compliance with applicable requirements under ch. 98, Stats., this chapter, and chs. ATCP 90 and 91:

(1) Commodities.

(2) Liquid measuring devices.

(3) Scales.

(4) Weighing, measuring and price verification systems.(5) Timing devices.(6) Linear measuring devices.

ATCP 92.06 Inspection procedures and equipment. (1) General. Inspectors shall inspect weights and measures according to ch. 98, Stats., this chapter, and chs. ATCP 90 and 91. An inspection, and the equipment used to make it, shall comply with all of the following that apply to that type of inspection:

(a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2003 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2003 edition.

(2) Price verification systems. Inspections of price verification systems shall comply with section 7 "test procedures" from the chapter titled "examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2003 edition.

(3) Inspection equipment and standards. The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by inspectors. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

NOTE: The standards incorporated by reference in subs. (1) and (2) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20402-0001.

ATCP 92.08 Inspector hiring and training. (1) Hiring. A municipality that has a weights and measures program under s. 98.04, Stats., shall hire its inspectors from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. A municipality may hire or contract with an inspector who is not a permanent civil service employee, provided that an open recruitment or bidding process is used to recruit, evaluate and certify the qualifications of prospective inspectors.

NOTE: See s. 98.04, Stats.

(2) Training. Inspectors shall complete weights and measures training prescribed by the department. The department may approve training programs offered by other entities, including governmental, private or educational entities. The department shall issue completion certificates to inspectors who complete prescribed training.

ATCP 92.09 Sealing or rejecting weights and measures. An inspector may do any of the following after inspecting weights and measures:

(1) Apply a seal or mark of approval to weights or measures that comply with applicable requirements under ch. 98, Stats., and this chapter.

(2) Mark or tag as "rejected" those weights and measures that fail to comply with applicable requirements under ch. 98, Stats., or this chapter.

ATCP 92.10 Recordkeeping and reporting. (1) Annual report. A municipality that operates a weights and measures program under s. 98.04(1), Stats., shall submit to the department an annual report by August 1 of each year. The report shall cover the 12 months ending June 30 of that year. The report shall describe, in a form prescribed by the department, the activities and findings of the municipal program during the period covered by the report. The report shall include all of the following:

- (a) The names of all supervisory and inspection personnel assigned to perform weights and measures program activities.
- (b) The number and types of devices or equipment inspected, and a summary of compliance data related to those inspections.
- (c) The number and types of establishments inspected.
- (d) The number and types of commodities inspected, and a summary of compliance data related to those inspections.
- (e) A summary of weights and measures prosecutions and enforcement actions.
- (f) A summary of training activities in which inspection personnel participated during the period covered by the report.
- (g) The estimated annual operating budget for the program.
- (h) Other relevant information required by the department.

NOTE: You may obtain a copy of the Annual Report form for Municipal Departments of Weights and Measures by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
 Division of Trade and Consumer Protection
 Weights & Measures Program
 P.O. Box 8911

Madison, WI 53708-8911.

(2) Records and audits. A municipality that operates a weights and measures program under s. 98.04, Stats., shall keep complete and accurate records of its activities and findings under that program. The department may audit and evaluate municipal weights and measures programs, as it deems necessary, to ensure compliance with this chapter and ch. 98, Stats.

Section 19. Chapter ATCP 92 subchapter III is created to read:

SUBCHAPTER III

WEIGHTS AND MEASURES SERVICE COMPANIES

ATCP 92.20 Weights and measures service company; license. (1) License Required. Except as provided in sub. (5), no person may install, service, test or calibrate weights and measures without a current annual license from the department, as required under s. 98.18, Stats. A license expires on December 31 of each year. A license is not transferable between persons or business locations.

(2) License application. A person seeking a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

(a) The applicant's correct legal name and every trade name under which the applicant engages in activities under sub. (1).

(b) The address of each business location from which the applicant engages in activities under sub. (1).

(c) The full name, birthdate, and date of certification of each technician who engages in activities under s. ATCP 92.21 on behalf of the applicant.

(d) The fees required under sub. (3).

NOTE: You may obtain application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
 Division of Trade and Consumer Protection
 Weights & Measures Program
 P.O. Box 8911

Madison, WI 53708-8911.

(3) License fees. A license application under sub. (2) shall include all of the following applicable fees:

(a) A fee of \$250 if the applicant is engaged solely in installing, servicing, testing or calibrating weights and measures that the applicant owns.

(b) Each of the following fees if the applicant installs, services, tests or calibrates weights and measures for others:

1. A basic license fee of \$250.

2. A supplementary fee of \$75 per year for each additional business location, in excess of one location, from which the applicant installs, services, tests or calibrates weights and measures for others.

(c) A surcharge of \$200 if the department determines that, within one year before submitting the license application, the applicant operated without a license in violation of sub. (1).

(d) A late renewal fee of \$50 if the applicant is applying for the renewal of a license that has already expired.

NOTE: See s. 93.21(5), Stats. The late renewal fee of \$50 is 20% of the basic license fee of \$250.

(4) Denying, suspending or revoking a license. The department may deny, suspend or revoke a license under sub. (1) for cause, pursuant to s. 93.06(7), Stats., and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

(5) Exemptions. Subsection (1) does not apply to any of the following:

(a) A person who installs, services, tests or calibrates weights and measures only as an employee of a person licensed under sub. (1).

(b) An inspector or metrologist employed by this state, or by a county or municipality, to test or calibrate weights and measures.

ATCP 92.21 Weights and measures technicians; certification. (1) Certification required. (a) No weights and measures service company may employ or direct an individual to do any of the following, with respect to a weighing or measuring device, unless the department has certified that individual in a category under sub. (4) that includes that device:

1. Remove an official rejection tag or mark applied under s. ATCP 92.09(2).

2. Test, calibrate, service or seal a weighing or measuring device.

3. Verify that the weighing or measuring device is correct.

(b) No individual operating a weights and measures service company may engage in any of the activities under par. (a) unless that individual is certified under par. (a).

NOTE: An individual operating a weights and measures service company must also be licensed under s. ATCP 92.20.

(2) Application for certification. An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual certified under sub. (1). The applicant shall apply on a form provided by the department. An application shall include, for each individual to be certified, all the following:

1. The individual's full name (first, middle and last) and birth date.

2. Proof that the individual has met the examination requirement under sub. (3)(a), or is currently certified by another state as provided in sub. (3)(b).

NOTE: You may obtain certification application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911

Madison, WI 53708-8911.

(3) Examination required. (a) The department may not certify an individual under sub. (1) in any category under sub. (4) unless one of the following applies:

1. The individual has passed the central weights and measures association registered service persons examination, or another examination approved by the department, in that category.
2. The individual is currently certified in an equivalent category in another state, and has passed an examination under subd. 1 within 5 years prior to the date on which the department receives the certification application under sub. (2).

(b) An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual take an examination required under par. (a). The applicant shall apply to the department, on a form provided by the department. The application shall include, for each individual, all the following:

1. The individual's full name (first, middle and last) and birth date.
2. An address and telephone number at which the applicant may be contacted to schedule the examination.
3. A \$25 examination fee. A single fee entitles an individual to take examinations in one or more certification categories on the same day.

NOTE: You may obtain exam application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(c) Whenever the department receives a complete application under par. (b), the department or its agent shall schedule an examination date with the applicant. The examination date shall be not later than 60 days after the date on which the department receives the complete application, unless the applicant agrees to a later date. (4) Certification category. The department may certify an individual in one or more of the device categories for which the central weights and measures association provides examinations.

NOTE: Currently, the Central Weights and Measures Association provides examinations in the following device categories: retail computing scales, medium capacity scales, livestock scales, vehicle scales, railroad track scales, belt conveyor scales, retail motor fuel dispensers, vehicle tank meters, LPG meters, and agricultural chemical and mass flow meters.

(5) Action on certification. The department shall grant or deny an application under sub. (2) within 45 days after the examination date under sub. (3)(c) except that, if no examination is required under sub. (3), the department shall grant or deny an application under sub. (2) within 45 days after the department receives a complete application.

(6) Certification expires. A certification under sub. (1) expires 5 years after the department issues that certification.

(7) Denying, suspending or revoking a certification. The department may deny, suspend or revoke a certification under sub. (1) for cause, pursuant to s. 93.06(7) and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

ATCP 92.22 Weights and measures service companies; test procedures and equipment. (1) General. Whenever a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall do all the following:

(a) Comply with this chapter and ch. 98, Stats.

(b) Comply with applicable requirements contained in the national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2003 edition.

NOTE: The national institute of standards and technology handbook 44, 2003 edition, is on file with the department, the secretary of state and the revisor of statutes. You may purchase copies of this handbook from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20402-0001.

(c) Use equipment and standards that comply with sub. (2).

(d) Affix a security seal to any adjustment mechanism that is designed to be sealed. The security seal shall identify the weights and measures service company and individual technician by name, initials or other unique identifiers.

(e) Prepare a report according to s. ATCP 92.23.

(2) Test equipment and standards. The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by weights and measures service companies. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

ATCP 92.23 Weights and measures service companies; reports. (1) Report required. A weights and measures service company shall prepare a written report whenever it installs, services, tests or calibrates a weighing or measuring device. The weights and measures technician who performs the work on behalf of the service company shall prepare and sign the report. The report shall include all the following:

(a) The name of the device owner or operator, the location of the device, and a uniquely identifying description of the device.

(b) The date on which the service company installed, serviced, tested or calibrated the device.

(c) The nature of the work performed on the device.

(d) A statement that an inspector had marked or sealed the device as "rejected," if that is the case. The report shall include the date of the "rejected" mark or seal, if known. The report shall state whether the service company returned the device to service and, if it did return the device to service, the date on which it did so.

(e) The level of accuracy and correctness found at the beginning of each test and after any adjustments to the device .

(f) A statement clearly indicating whether the device was correct when the service company completed its work. If the service company did not determine whether the device was correct, the report shall indicate that fact.

(g) The name of the service company technician who installed, serviced, tested or calibrated the device.

(2) Giving copies. Within 10 days after a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall mail or deliver a copy of its report under sub. (1) to each of the following:

(a) The owner or operator of the device.

(b) The department if the service company returns to service a device rejected by the department.

(c) The municipality if the service company returns to service a device rejected by the municipality.

(3) Keeping copies. A weights and measures service company shall keep a copy of every report under sub. (1) for at least 2 years after the report is created.

ATCP 92.24 Prohibited practices. No person who sells, installs, services, tests or calibrates a weighing or measuring device may do any of the following:

- (1) Cause the device to be incorrect.
- (2) Misrepresent that the device is correct.
- (3) Misrepresent, directly or by implication, that the person has determined whether the device is correct.
- (4) Fail to comply with this chapter or ch. 98, Stats.
- (5) Remove any reject tag or mark applied by a state or municipal inspector unless the person first does one of the following:
 - (a) Adjusts the device to bring it into compliance with this chapter and ch. 98, Stats.
 - (b) Obtains express authorization from the department or, if the reject tag or mark was applied by a municipal inspector, from that municipality.

Section 20. Chapter ATCP 92 subchapter IV (title), inserted prior to s. ATCP 92.30, is created to read:
SUBCHAPTER IV

VEHICLE AND LIVESTOCK SCALES

Section 21. ATCP 92.31 is created to read:

ATCP 92.31 Vehicle scale license. (1) License required. No person may operate a vehicle scale without a license from the department, as provided under s. 98.16, Stats. A separate license is required for each scale. A license is not transferable between persons, scales or scale locations. A license expires on March 31 annually.

(2) License application. A person applying for a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

- (a) The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle scale.
- (b) The nature and location of the vehicle scale.
- (c) The fees required under sub. (3).
- (d) Other information that the department reasonably requires for licensing purposes.

(3) License fees. A person applying for a vehicle scale license under sub. (1) shall pay an annual license fee of \$100 per vehicle scale. The applicant shall also pay a license fee surcharge under s. 98.16 (2)(c), Stats., if that surcharge applies.

NOTE: Under s. 98.16(2)(c), Stats., a license applicant must pay a surcharge of \$200 if the department finds that the applicant operated without a required license within one year prior to submitting the license application. Other civil and criminal penalties may also apply.

(4) Action on license application. The department shall grant or deny a license application under sub. (2) within 20 business days after the department receives a complete application.

(5) Exemption. Subsection (1) does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license under sub. (1). Section 22. Chapter ATCP 92 subchapter V(title), inserted prior to s. ATCP 92.40, is created to read:

SUBCHAPTER V

LIQUIFIED PETROLEUM GAS

Effective date. This rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats., except that s. ATCP 92.21(1) takes effect on December 31, 2004.

Dated this _____ day of _____, 2003.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

Rodney J. Nilsestuen, Secretary