

CR 95-057

STATE OF WISCONSIN

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) ss.

Clearinghouse Rule
No. 95-057

DEPARTMENT OF AGRICULTURE,
TRADE & CONSUMER PROTECTION

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CERTIFICATION:

I, Alan T. Tracy, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to weighing and measuring devices was signed and adopted by the department on October 25, 1995.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 25th day of October, 1995.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By


Alan T. Tracy, Secretary



1-1-96



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

1 The state of Wisconsin department of agriculture, trade and
2 consumer protection proposes the following order to renumber ATCP
3 92.02 and 92.02(note), to amend ATCP 92.01(14), 92.03(1),
4 92.03(3)(b)3, (c)(title), (c)1, (c)3, (e)1, (e)3 and (h), to
5 repeal and recreate ATCP 92.03(8), and to create ATCP 92.01(11m),
6 92.02(2) to (5) and 92.03(8)(note), relating to commercial
7 weighing and measuring devices.

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

Statutory authority: ss. 93.07(1), 98.03(2), 98.07(4), and
98.16(3) and 98.18(2), Stats.

Statutes interpreted: ss. 98.03(2), 98.07(1), 98.16, 98.18,
98.20, 98.25, and 98.26(1)(b) and (c).

Certified Weighing and Measuring Devices

The United States Department of Commerce, National Institute of Standards and Technology (NIST), has established a national system for testing and certifying commercial weighing and measuring devices. Under the new federal system, NIST accredits weights and measures laboratories to evaluate and test commercial weighing and measuring devices. Devices are tested for compliance with applicable standards set forth in NIST Handbook 44. If testing verifies that a device complies with Handbook 44 standards, NIST issues a "certificate of conformance" for that model or type of device.

Currently, 35 states require that commercial weighing and measuring devices be certified by NIST for compliance with Handbook 44 before the devices are sold or used. The states include midwestern states such as Illinois, Michigan, Iowa, South Dakota, Missouri, Kansas, Ohio and Nebraska. States have adopted the federal certification program because the states themselves are not equipped to perform all of the highly technical procedures needed to determine compliance with Handbook 44.

This rule incorporates the federal certification system into Wisconsin's weights and measures program. Under this rule, every commercial weighing and measuring device put into use after January 31, 1996 must be a model or type which NIST has certified for compliance with Handbook 44. This requirement will help ensure the accuracy of commercial weighing and measuring devices.

Vehicle Scales; Rule Amendments

Current rules spell out construction standards for vehicle scales in order to ensure the accuracy and structural integrity of those scales. This rule amends some of the current construction standards. Among other things, this rule permits the use of durable materials other than concrete in the construction of approaches to vehicle scales. (The current rules require concrete approaches.)

This rule exempts temporary or portable scales from some of the construction and installation standards that currently apply to permanent vehicle scales. However, temporary or portable scales must still be licensed and annually inspected under ss. 98.16 and 98.25, Stats. They must also comply with applicable standards specified under this rule and NIST Handbook 44.

1 **SECTION 1.** ATCP 92.01(11m) is created to read:

2 ATCP 92.01(11m) "Portable vehicle scale" means any self-
3 contained vehicle scale that is all of the following:

4 (a) Designed and engineered by the original manufacturer to
5 measure weight accurately when used without a permanent concrete
6 foundation or approach ramp.

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

9 (c) Designed for use with approach bulkheads.

10 (d) Readily movable between job sites.

11 **SECTION 2.** ATCP 92.01(14) is amended to read:

12 ATCP 92.01(14) "Vehicle scale" means a scale designed to
13 weigh loaded or unloaded highway, farm or industrial vehicles,
14 and includes above-ground scales, dump scales and portable

1 scales. ~~"Vehicle scale" does not include a scale used~~
2 ~~exclusively for highway construction if use of the scale is~~
3 ~~supervised by the state of Wisconsin department of~~
4 ~~transportation.~~

5 SECTION 3. ATCP 92.02 and 92.02(note) are renumbered
6 92.02(1) and (1)(note).

7 SECTION 4. ATCP 92.02(2) to (5) are created to read:

8 ATCP 92.02(2) Except as provided under sub. (3), no person
9 may sell, offer for sale, use or distribute for use in this state
10 a commercial weighing or measuring device unless that device is a
11 type or model which the chief of the office of weights and
12 measures of the national institute of standards and technology
13 has certified as being in compliance with applicable standards
14 set forth in the national institute of standards and technology
15 handbook 44 (specifications, tolerances and other technical
16 requirements for weighing and measuring devices).

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

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

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

23 (c) A commercial weighing or measuring device for which the
24 national institute of standards and technology has yet to adopt
25 testing and certification procedures, provided that the
26 department authorizes the sale and use of that device in this

1 state. A person seeking department authorization shall apply to
2 the department in writing. The application shall include
3 relevant engineering and use specifications for the device, and
4 shall document that the national institute of standards and
5 technology has yet to adopt testing and certification procedures
6 for that device. The department shall grant or deny
7 authorization within 30 days after the department receives a
8 complete application, including any supplementary information
9 requested by the department.

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

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

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

19 (c) The repair or remanufacture of the device causes the
20 device to be in violation of any applicable standard under sub.
21 (1).

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

24 **SECTION 5.** ATPC 92.03(1) is amended to read:

25 ATPC 92.03(1) ~~PERMIT REQUIRED. No scale service company or~~
26 ~~other~~ person may install or relocate a vehicle or livestock scale

1 without a permit from the department. A permit application shall
2 be made in writing on a form provided by the department, and
3 shall include a construction plan. The application and
4 construction plan shall document that the scale complies with the
5 construction standards under sub. (3). The department shall
6 grant or deny a permit application within 20 business days after
7 a complete application and construction plan are filed with the
8 department.

9 **SECTION 6.** ATCP 92.03(3)(b)3, (c)(title), (c)1, (c)3, (e)1,
10 (e)3 and (h) are amended to read:

11 ATCP 92.03(3)(b)3. ~~Each end wall of a~~ A vehicle scale end
12 wall, if poured with seams or joints, shall be constructed with a
13 step at the outer edge to provide support for ~~a concrete~~ the
14 vehicle approach slab unless the approach slab consists of
15 reinforced concrete which is poured monolithically with the end
16 wall and joined to the end wall with reinforcing rods. The step
17 shall extend for the entire length of the end wall, and shall be
18 at least 6 inches (15 cm) wide and 6 inches (15 cm) deep.

19 (c)(title) Foundations.

20 (c)1. Load-bearing piers and scale walls shall rest on
21 reinforced concrete footings which extend at least 12 inches (30
22 cm) below the frost line, or on a reinforced concrete base slab
23 not less than 12 inches (30 cm) thick. Footings and slabs which
24 support load-bearing piers or scale walls shall be constructed ~~to~~
25 ~~withstand at least 3,000 lbs. per sq. ft. loading at pier~~
26 locations according to the manufacturer's engineering drawings,

1 and shall be constructed to prevent frost heaving.

2 (c)3. ~~The~~ A load-bearing concrete surface underlying an
3 above-ground vehicle scale shall rest on a bed of ~~washed gravel~~
4 compacted aggregate which is at least ~~12~~ 6 inches (~~30~~ 15 cm)
5 thick under every portion of the load-bearing concrete surface~~-.L~~
6 or on an alternative foundation constructed according to the
7 manufacturer's engineering drawings. ~~The gravel shall be~~
8 ~~approximately 3/4 inch (1.8 cm) in diameter and shall be~~
9 ~~compacted to 85% of its initial volume.~~ This subdivision does
10 not apply to above-ground scales ~~constructed~~ installed prior to
11 January 1, 1992.

12 (e)1. In every scale pit, there shall be a clearance of not
13 less than 6 feet (1.8 meters) between the finished floor line of
14 the scale pit and the top edge of the pit coping, or a clearance
15 of not less than 48 inches (1.2 meters) between the finished
16 floor line of the scale pit and the bottom of the load receiving
17 element ~~or,~~ the bottom of the beam supporting the load receiving
18 element, or the top of the fully electronic load receiving
19 element. The clearance between the load receiving element and
20 the coping of every scale pit wall shall be not less than 1/2
21 inch (1.2 cm) and not more than 3/4 inch (1.8 cm).

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

26 (h) Approach surfaces. Entry and exit approaches to a

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

18 **SECTION 7.** ATCP 92.03(8) is repealed and recreated to read:

19 ATCP 92.03(8) EXEMPTIONS. Subsections (1) to (7) do not
20 apply to any of the following:

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

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

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

1 specifications.

2 2. Durable vehicle approaches that provide adequate
3 drainage away from the scale and easy access for the department
4 or a scale service company to test compliance with s. ATCP
5 92.02(1).

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

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

12 **SECTION 8.** ATCP 92.03(8) (note) is created to read:

13 NOTE: Scales identified under sub. (8) are not exempt from
14 s. ATCP 92.02, from licensing requirements under s.
15 98.16, Stats., or from the annual testing requirement
16 under s. 98.25, Stats.
17

18 **SECTION 9.** The rules contained in this order shall take
19 effect on the first day of the month following publication in the
20 Wisconsin administrative register as provided in s.
21 227.22(2) (intro.), Stats.
22

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Dated this 25th day of October, 1995.

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STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Alan T. Tracy, Secretary

Final Regulatory Flexibility Analysis

Ch. ATCP 92, Wis. Adm. Code
(Weighing and Measuring Devices)

Certification of Weighing and Measuring Devices

Under this rule, all new commercial weighing and measuring devices sold and installed in Wisconsin after December 31, 1996 must be certified by the National Institute of Standards and Technology (NIST) for compliance with NIST Handbook 44. NIST certification is not required for every individual device, but merely for prototype or model devices. Certification covers individual devices which are of the type or model certified, provided that the individual devices are not significantly altered.

This certification requirement will not have a significant impact on small businesses, but will help assure that commercial weighing and measuring devices are accurate. The national certification process will relieve manufacturers of weighing and measuring devices from having to obtain separate certification in each state. Certification will not significantly affect the cost of weighing and measuring devices.

Vehicle Scales; Rule Amendments

Current rules spell out construction standards for vehicle scales in order to ensure the accuracy and structural integrity of those scales. This rule amends some of the current construction standards. Among other things, this rule permits the use of durable materials other than concrete in the construction of approaches to vehicle scales. (The current rules require concrete approaches.)

This rule exempts temporary and portable scales from some of the construction and installation standards that currently apply to permanent vehicle scales. However, temporary or portable scales must still be licensed and inspected annually under ss. 98.16 and 98.25, Stats. They must also comply with applicable standards specified in this rule and NIST Handbook 44.

This rule will have no adverse impact on small business, but will make it easier for small business to comply with rules on vehicle scales. This rule will impose no new costs on small businesses, and may reduce costs in some cases. This rule creates no new reporting or recordkeeping requirements for small business.

Dated this 6th day of June, 1995.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Patricia A. Allen
Patricia Allen, Administrator,
Trade and Consumer Protection
Division

FISCAL ESTIMATE
DOA-2048 (R 10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject
WEIGHING AND MEASURING

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts VTAE Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
20.115(1)(a)

Assumptions Used in Arriving at Fiscal Estimate

The proposed changes or amendments to sections of the rule affect enforcement activities in which Trade and Consumer Protection Division weights and measures staff are already engaged. Therefore, no fiscal effect is estimated.

Under 98.04(1), Stats. each municipality of more than 5000 persons is charged with enforcing Ch. 98 or contracting with DATCP for enforcement. To the extent that these municipalities enforce our ATCP rules, currently, there should be no fiscal effect on them with this rule.

The cities that contract with the state for their weights and measures programs will not be affected by this proposed change and rule.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

DATCP
AL Porter 224-4945

Authorized Signature/Telephone No.

Barbara Knapp
Barbara Knapp

Date

6/6/95

224-4746

05/25/95



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

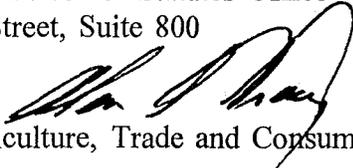
Alan T. Tracy, Secretary

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

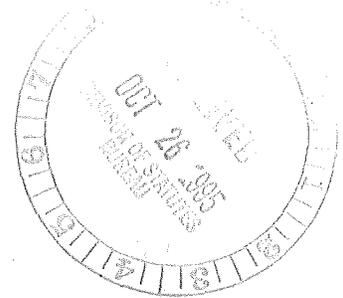
PO Box 8911
Madison, WI 53708-8911

Date: October 25, 1995

To: Gary Paulson - Revisor of Statutes Office
131 W Wilson Street, Suite 800

From: Alan T. Tracy 
Department Agriculture, Trade and Consumer Protection

Subject: **Clearinghouse Rule No. 95-057, Chapter ATCP 92,
Relating to Weighing and Measuring Devices**



The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing with the above rule.

Final Regulatory Flexibility Analysis

Certification of Weighing and Measuring Devices

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Gary Paulson
October 25, 1995
Page 2

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This rule will have no adverse impact on small business, but will make it easier for small business to comply with rules on vehicle scales. This rule will impose no new costs on small businesses, and may reduce costs in some cases. This rule creates no new reporting or record keeping requirements for small business.

Comments from Legislative Committees

The rule was referred to the Senate Committee on Transportation, Agriculture, Local and Rural Affairs on August 10, 1995 and to the Assembly Committee on Consumer Affairs on August 9, 1995. The department received no comments or request for hearing from either committee.