

Chapter ATCP 92

WEIGHTS AND MEASURES

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Note: Chapters Ag 51, 52, 115, and 120 as they existed on December 31, 1991 were repealed and a new chapter ATCP 92 was created effective January 1, 1992; Chapter Ag 52 was renumbered chapter ATCP 92 under s. 13.93 (2m) (b) 1., Stats., Register,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 (4), 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.

(2) “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.

(3) “Consumer commodity” has the meaning given in s. ATCP 90.01 (5).

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

(5) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(6) “Individual” means a natural person.

(7) “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.

(8) “Liquefied petroleum gas meter” means a commercial meter used to measure liquefied petroleum gas sold or delivered to a consumer.

(9) “Livestock scale” means a scale designed or used to weigh livestock, but does not include a scale which is designed to weigh only one animal at a time.

Note: A “livestock scale” may also be a “vehicle scale” if it is used to weigh vehicles that contain livestock for the purpose of weighing the livestock.

(10) “Load receiving element” means that portion of a scale, such as a scale platform or deck, which receives the load to be weighed.

(11) “Person” means an individual, corporation, partnership, cooperative association, limited liability company, or other legal organization or entity.

(12) “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.

(13) “Portable vehicle scale” means any self-contained vehicle scale that is all of the following:

(a) 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.

(14) “Retail food establishment” has the meaning given in s. 97.30 (1) (c), Stats.

(15) “Vehicle scale” means a scale designed or used to weigh loaded or unloaded highway, farm, or industrial vehicles, and includes above-ground scales, dump scales, and portable scales. “Vehicle scale” does not include a railway scale used exclusively for the weighing of commodities on railroad track vehicles.

(16) “Vehicle tank meter” has the meaning given in s. 98.224 (1), Stats. A “vehicle tank” meter does not include a liquefied petroleum gas meter.

(17) “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.

(18) “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.

(19) “Weights and measures” has the meaning given in s. 98.01 (7), Stats.

(20) “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; CR 09-105: renum. (1e), (1m), (1s), (2), (2g), (2r), (4), (5), (6), (7), (10), (11), (12), (13) to be (2), (3), (4), (5), (6), (7), (10), (11), (12), (13), (17), (18), (19), (20), renum. (3), (9) to be (9), (15) and am., cr. (8), (14), (16) Register December 2010 No. 660, eff. 1-1-11.

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), 2011 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 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:

(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; CR 08-075: am. (1) Register April 2009 No. 640, eff. 5-1-09; CR 10-122: am. (1) Register July 2011 No. 667, eff. 8-1-11.

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), 2011 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2011 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), 2011 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 15250-7954.

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; CR 08-075: am. (1) (a) and (2) Register April 2009 No. 640, eff. 5-1-09; CR 10-122: am. (1) (a), (b), (2) Register July 2011 No. 667, eff. 8-1-11.

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.

(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.

ATCP 92.12 Retail food establishments; weights and measures inspection fee. (1) **ANNUAL FEE REQUIRED.** Except as provided in sub. (2), an applicant for a retail food establishment license under s. ATCP 75.03 shall pay the following weights and measures inspection fee:

(a) For a retail food establishment that has annual food sales of \$15,000,000 or more and that processes potentially hazardous food, an annual weights and measures inspection fee of \$300.

(b) For a retail food establishment that has annual food sales of \$5,000,000 or more but less than \$15,000,000 and that processes potentially hazardous food, an annual weights and measures inspection fee of \$250.

(c) For a retail food establishment that has annual food sales of \$1,000,000 or more but less than \$5,000,000 and that processes potentially hazardous food, an annual weights and measures inspection fee of \$150.

(d) For a retail food establishment that has annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food, an annual weights and measures inspection fee of \$60.

(e) For a retail food establishment that has annual food sales \$25,000 or more and that is engaged in food processing, but that does not process potentially hazardous food, an annual weights and measures inspection fee of \$40.

(f) For a retail food establishment that is not engaged in food processing, an annual weights and measures fee of \$20.

(2) **RETAIL FOOD ESTABLISHMENT INSPECTED BY A MUNICIPALITY.** Subsection (1) does not apply to a retail food establishment that is located in a municipality that has a municipal department of weights and measures under s. 98.04 (1), Stats., or that collects fees from the retail food establishment under s. 98.04 (2), Stats., for the purpose of enforcing ch. 98, Stats.

Note: See s. 97.30 (3) (d) and (3m), Stats.

History: CR 09-105: cr. Register December 2010 No. 660, eff. 1-1-11.

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) All fees and surcharges required under sub. (3).

Note: You may obtain application forms at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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 and surcharges:

(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 \$280.

2. A supplementary fee of \$85 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.

3. Reinspection fees, if any, required under s. ATCP 92.60.

(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; CR 09-105: am. (2) (d), (3) (intro.), (b) 1., 2., cr. (3) (b) 3. Register December 2010 No. 660, eff. 1-1-11.

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 application forms at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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 \$30 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; CR 09-105: am. (3) (b) 3. Register December 2010 No. 660, eff. 1-1-11.

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), 2011 edition.

Note: The national institute of standards and technology handbook 44, 2011 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; CR 08-075: am. (1) (b) Register April 2009 No. 640, eff. 5-1-09; CR 10-122: am. (1) (b) Register July 2011 No. 667, eff. 8-1-11.

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, construction, and testing. (1) **VEHICLE SCALE; PERMIT REQUIRED.** (a) No person may install or relocate a vehicle scale without a permit from the department.

(b) A person shall apply for a permit under par. (a) in writing, on a form provided by the department. The application shall include all of the following:

1. A nonrefundable application fee of \$65, if the application pertains to a vehicle scale.

2. A construction plan for the vehicle scale.

(c) An application under par. (b) shall document that the vehicle scale or livestock scale complies with the construction standards in sub. (3).

(d) The department shall grant or deny a permit application under par. (b) within 20 business days after the department receives a complete application. The department may deny an application if the applicant begins to install or relocate the vehicle scale while the permit application is still pending approval.

Note: A permit application form under sub. (1) (b) may be obtained at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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) MASTER 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) VEHICLE AND LIVESTOCK SCALES; CONSTRUCTION STANDARDS. Except as provided under sub. (6) or (9), 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) **VEHICLE AND LIVESTOCK SCALES; 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) **VEHICLE AND LIVESTOCK SCALES; INSTALLATION REPORT.** 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 number of the permit under sub. (1) that authorized the scale installation or relocation, if the scale is a vehicle scale.

(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 sub. (7).

(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) **VEHICLE AND LIVESTOCK SCALES; CONSTRUCTION VARIANCES.** (a) The department may grant a variance from a construction requirement under sub. (3) if the department determines that the variance is justified by special circumstances and will not compromise the structural integrity or accuracy of the scale. The department may impose any conditions on the variance, including alternative construction requirements, which it considers necessary.

(b) A person applying for a variance under par. (a) shall submit the application in writing, on a form provided by the department. The application shall include all of the following:

1. A detailed written justification for the variance. The justification shall demonstrate that the proposed variance is justified by special circumstances and will not compromise the structural integrity or accuracy of the scale.

2. A nonrefundable variance application fee of \$150.

(c) The department may deny a variance application under par. (b) if the requester begins construction in violation of any requirement under sub. (3) before the department grants a variance from that requirement.

Note: A variance application form under sub. (6) (b) may be obtained at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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.

(7) **VEHICLE AND LIVESTOCK SCALES; ANNUAL TESTING.** (a) The owner or operator of a vehicle or livestock scale with a weighing capacity of 5,000 pounds or more that is used for the commercial weighing of commodities or livestock shall at least annually cause the scale to be inspected and tested for accuracy by a person licensed under s. ATCP 92.20 (1). The person performing the inspection and test shall prepare a written inspection and test report for the scale owner or operator.

(b) If a report under par. (a) shows that a scale is inaccurate, the scale may not be used until a person licensed under s. ATCP

92.20 (1) re-inspects and retests the scale and delivers a written report to the scale owner or operator confirming that the inaccuracy has been corrected.

(c) The owner or operator of a vehicle or livestock scale shall file with the department a copy of each report prepared in connection with the inspection or testing of that scale, including any report required under par. (a) or (b), not more than 15 days after the owner or operator receives the test report and not more than 30 days after the reported inspection or test occurred.

(d) If the department finds that a vehicle scale operator who is required to be licensed under s. ATCP 92.31 (1) has failed to file a vehicle scale inspection or test report as required by par. (c), the department shall assess against that operator a license surcharge of \$200. The department may not issue or renew an annual license under s. ATCP 92.31 (1) if the operator fails to include the amount of any unpaid surcharge assessed under this paragraph with the operator's annual license application. The department may suspend or revoke an annual license if the license holder fails to pay a surcharge assessed under this paragraph within 120 days after the department assesses the surcharge. A surcharge payment under this paragraph does not relieve a vehicle scale operator of any other civil or criminal liability for violating sub. (1), but is not evidence of a violation.

Note: The testing and reporting requirements under sub. (7) (a) to (c) apply to all vehicle scales and livestock scales. However the license surcharge under par. (d) applies only to vehicle scales whose operators are required to be licensed under s. ATCP 92.31 (1). See surcharge authorization in s. 98.16 (3m) (c), Stats. Violations by vehicle scale or livestock scale operators are also subject to penalties under s. 98.26, Stats.

(8) **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.

(9) **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 testing requirement under s. 98.16 (3m), 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; CR 09-105: am. (title), (2) (title), (3) (title), (intro.), (4) (title), (5) (f), r. and recr. (1), (5) (title), (a), (6), renum. (7), (8) to be (8), (9), cr. (7) Register December 2010 No. 660, eff. 1-1-11; correction in (5) (f) made under s. 13.92 (4) (b) 7., Stats., Register December 2010 No. 660.

ATCP 92.31 Vehicle scale; license to operate.

(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 and surcharges required under sub. (3).

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

Note: A license application form under sub. (2) may be obtained at http://www-datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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 AND SURCHARGES.** A person applying for a vehicle scale license under sub. (1) shall pay the following fees and surcharges:

(a) An annual license fee of \$115 for each vehicle scale.

(b) A license surcharge of \$200 if the department determines that, within one year before submitting the license application, the applicant operated a vehicle scale without a license in violation of sub. (1). A surcharge payment under this paragraph does not relieve the applicant of any other civil or criminal liability for violating sub. (1), but is not evidence of a violation.

(c) Any unpaid license surcharge that has been assessed against the license applicant under s. ATCP 92.30 (7) (d).

(d) Reinspection fees, if any, required under s. ATCP 92.60.

(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; CR 09-105: am. (title), (2) (c), r. and recr. (3) Register December 2010 No. 660, eff. 1-1-11; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register December 2010, No. 660.

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			28	1.050	1.034
Temperature	Propane	Butane	29	1.048	1.033
-20	1.115	1.080	30	1.047	1.032
-19	1.113	1.079	31	1.045	1.031
-18	1.112	1.078	32	1.044	1.030
-17	1.111	1.077	33	1.042	1.029
-16	1.110	1.076	34	1.041	1.028
-15	1.109	1.075	35	1.039	1.026
-14	1.108	1.074	36	1.038	1.025
-13	1.107	1.073	37	1.036	1.024
-12	1.105	1.072	38	1.035	1.023
-11	1.103	1.071	39	1.033	1.022
-10	1.102	1.071	40	1.032	1.021
-9	1.101	1.070	41	1.030	1.020
-8	1.100	1.069	42	1.029	1.019
-7	1.098	1.068	43	1.027	1.018
-6	1.096	1.067	44	1.026	1.017
-5	1.094	1.066	45	1.024	1.016
-4	1.092	1.065	46	1.022	1.015
-3	1.091	1.065	47	1.020	1.014
-2	1.090	1.064	48	1.019	1.013
-1	1.089	1.063	49	1.017	1.012
0	1.088	1.062	50	1.016	1.011
1	1.087	1.061	51	1.014	1.010
2	1.086	1.060	52	1.013	1.009
3	1.084	1.059	53	1.011	1.007
4	1.083	1.058	54	1.010	1.006
5	1.081	1.057	55	1.008	1.005
6	1.080	1.055	56	1.007	1.004
7	1.079	1.054	57	1.005	1.003
8	1.078	1.053	58	1.003	1.002
9	1.076	1.052	59	1.001	1.001
10	1.075	1.051	60	1.000	1.000
11	1.073	1.050	61	.998	.999
12	1.072	1.049	62	.997	.998
13	1.071	1.048	63	.995	.997
14	1.070	1.047	64	.993	.996
15	1.068	1.046	65	.991	.994
16	1.067	1.045	66	.990	.993
17	1.066	1.044	67	.988	.992
18	1.065	1.043	68	.986	.991
19	1.063	1.042	69	.984	.990
20	1.062	1.041	70	.983	.989
21	1.060	1.040	71	.981	.988
22	1.059	1.039	72	.980	.987
23	1.057	1.038	73	.978	.986
24	1.056	1.037	74	.976	.985
25	1.054	1.036	75	.974	.983
26	1.053	1.036	76	.973	.982
27	1.051	1.035	77	.971	.981

Temperature	Propane	Butane
78	.970	.980
79	.968	.979
80	.967	.978
81	.965	.977
82	.963	.976
83	.961	.975
84	.959	.974
85	.957	.972
86	.956	.971
87	.954	.970
88	.952	.969
89	.950	.968
90	.949	.967
91	.947	.966
92	.945	.965
93	.943	.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 Liquefied petroleum gas meter; license to operate. (1) LICENSE REQUIRED. (a) Except as provided in par. (b), no person may operate a liquefied petroleum gas meter without an annual license from the department. An annual license expires on November 30. A separate license is required for each liquefied petroleum gas meter. A license is not transferable between persons or meters.

(b) Paragraph (a) does not apply to an individual who operates a liquefied petroleum gas meter only as an employee of a person who holds a license under par. (a) to operate that meter.

(2) LICENSE APPLICATION. A person shall apply for a license under sub. (1) on an application form provided by the department. The application shall include a test report that complies with s. ATCP 92.45 and shows the liquefied petroleum gas meter is correct.

Note: An application form under sub. (2) may be obtained at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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 AND SURCHARGES. An application under sub. (2) shall include all of the following fees and surcharges:

(a) A license fee of \$40 for each liquefied petroleum gas meter for the license year December 1, 2011, to November 30, 2012, and a license fee of \$60 for each liquefied petroleum gas meter for license years beginning after November 30, 2012.

(b) A surcharge of \$200 if the department determines that, within one year prior to submitting the application, the applicant operated the liquefied petroleum gas meter without the license required under sub. (1). A surcharge payment under this paragraph does not relieve the applicant of any other civil or criminal liability for violating sub. (1), but is not evidence of a violation.

(c) A surcharge of \$200 if the department determines that, within one year prior to submitting the application, the applicant failed to comply with a test reporting requirement under s. ATCP 92.45. A surcharge payment under this paragraph does not relieve the applicant of any other civil or criminal liability for violating s. ATCP 92.45, but is not evidence of a violation.

(d) Reinspection fees, if any, required under s. ATCP 92.60.

(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.

History: CR 02-141: renum. from ATCP 92.05 (4) Register August 2003 No. 572, eff. 9-1-03; CR 09-105: r. and recr. Register December 2010 No. 660, eff. 1-1-11.

ATCP 92.45 Liquefied petroleum gas meter; testing and reporting. The operator of a liquid petroleum gas meter shall at least annually have the meter tested for accuracy by a person who is licensed under s. ATCP 92.20 (1) to perform the testing. The person performing the test shall provide the meter operator with a written report of test results. The meter operator shall provide a copy of the test report to the department within 30 days after the testing is completed, and shall retain the test report for at least 3 years.

Note: A tester may, on behalf of a meter operator, provide a copy of a test report to the department as required under s. ATCP 92.45. However, the meter operator is ultimately responsible for ensuring that the department receives a copy of the test report.

History: CR 09-105: cr. Register December 2010 No. 660, eff. 1-1-11.

Subchapter VI — Vehicle Tank Meters

ATCP 92.50 Vehicle tank meter; license to operate.

(1) LICENSE REQUIRED. (a) Except as provided in par. (b), no person may operate a vehicle tank meter without an annual license from the department. An annual license expires on October 31. A separate license is required for each vehicle tank meter. A license is not transferable between persons or vehicle tank meters.

(b) Paragraph (a) does not apply to an individual who operates a vehicle tank meter only as an employee of a person who holds a license under par. (a) to operate that vehicle tank meter.

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

(a) A test report that complies with s. ATCP 92.52 and shows that the vehicle tank meter is accurate.

(b) The license fees and surcharges required under sub. (3).

Note: An application form under sub. (2) may be obtained at http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp or 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 AND SURCHARGES. An application under par. (b) shall include all of the following fees and surcharges:

(a) A license fee of \$40 for each vehicle tank meter for the license year beginning on November 1, 2011, and ending on October 31, 2012.

(b) A license fee of \$60 for each vehicle tank meter for all license years beginning after October 31, 2012.

(c) A surcharge of \$200 if the department determines that within one year prior to submitting the application, the applicant operated the vehicle tank meter without a license required under par. (a) or (b). A surcharge payment under this paragraph does not relieve the applicant of any other civil or criminal liability for violating sub. (1), but is not evidence of a violation.

(d) A surcharge of \$200 if the department determines that, within one year prior to submitting the application, the applicant failed to comply with the reporting requirement under sub. (3). A surcharge payment under this paragraph does not relieve the applicant of any other civil or criminal liability for violating s. ATCP 92.52, but is not evidence of a violation.

(e) Reinspection fees, if any, required under s. ATCP 92.60.

(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.

History: CR 09-105: cr. Register December 2010 No. 660, eff. 1-1-11.

ATCP 92.52 Vehicle tank meter; testing and reporting. The operator of a vehicle tank meter shall at least annually have the meter tested for accuracy by a person who is licensed under s. ATCP 92.20 (1) to perform the testing. The person performing the test shall provide the meter operator with a written report of test results. The meter operator shall provide a copy of the test report to the department within 30 days after the testing is completed, and shall retain the test report for at least 3 years.

Note: A tester may, on behalf of a meter operator, provide a copy of a test report to the department as required under s. ATCP 92.52. However, the meter operator is ultimately responsible for ensuring that the department receives a copy of the test report.

History: CR 09-105: cr. Register December 2010 No. 660, eff. 1-1-11.

Subchapter VII — Reinspection Fees

ATCP 92.60 Reinspection fees. (1) REINSPECTION FEE CHARGED. If the department reinspects a weight or measure because the department has found a violation of this chapter or ch. 98, Stats., the department shall charge the operator of the weight or measure a reinspection fee as provided in sub. (2).

(2) REINSPECTION FEE AMOUNT. The amount of the reinspection under sub. (1) is as follows:

(a) For a large capacity scale (over 5,000 lbs), \$125.

(b) For a medium capacity scale (300-5,000 lbs), \$80.

(c) For a small capacity scale (up to 300 lbs), \$65.

(d) For a vehicle tank meter, \$95.

(e) For a liquified petroleum gas meter, \$150.

(f) For a loading rack meter or similar large volume meter, \$125.

(g) For a retail motor fuel device or similar liquid measuring device, \$65.

(h) For a timing device, \$65.

(i) For a grain moisture meter, \$85.

(j) For package checking and labeling accuracy, \$80.

(k) For price accuracy, \$105.

(L) For other reinspections, \$75.

(3) REINSPECTION FEE PAYMENT. A reinspection fee under sub. (1) is payable after the reinspection is completed and is due upon written demand from the department. If the operator is licensed to operate the weighing or measuring device, the department may issue a demand for payment when it issues an annual license application form to the operator and the operator may include the payment with the operator's application for license renewal.

(4) LICENSE CONDITIONED UPON PAYMENT. The department may deny, suspend, or revoke a license if the license holder or applicant has failed to pay a reinspection fee charged under sub. (1).

Note: An operator who fails to pay a reinspection fee charged under s. ATCP 92.60 may also be liable for penalties under s. 98.26, Stats.

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