

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

1 The state of Wisconsin department of agriculture, trade and consumer protection adopts the
2 following order to repeal ATCP 92.01(8) and 92.05(title); to renumber ATCP 92.01(1), 92.03(1)
3 to (8) and (note), and 92.05(1) to (4); to renumber and amend 92.03(title); to amend ATCP
4 90.01(4), 92.01(5) and 92.02(1); to repeal and recreate ATCP 91.01(1), ATCP 92 (title), (note)
5 and 92.02(2); and to create ATCP 92 subchapter I (title), 92.01(1), (1m), (1s), (2g), (2r), and (11)
6 to (13), 92.02(2)(b)(note), subchapters II and III, subchapter IV (title), 92.31 and subchapter V
7 (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).

1 **SECTION 3.** Chapter ATCP 92(title) is repealed and recreated to read:

1 **CHAPTER ATCP 92**
2 **WEIGHTS AND MEASURES**

3
4 **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.

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

7 **SUBCHAPTER I**
8 **GENERAL PROVISIONS**

9
10 **SECTION 6.** ATCP 92.01(1) is renumbered ATCP 92.01(1e).

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

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

15 (1m) “Consumer commodity” has the meaning given in s. ATCP 90.01(5).

16 (1s) “Correct,” as applied to a weighing or measuring device, means that the weighing
17 or measuring device complies with this chapter and ch. 98, Stats.

18 (2g) “Individual” means a natural person.

19 (2r) “Inspector” means any of the following:

20 (a) A department weights and measures inspector.

21
22 (b) A municipal weights and measures sealer or inspector under s. 98.04(1), Stats.

23 **SECTION 8.** ATCP 92.01(5) is amended to read:

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

4 **SECTION 9.** ATCP 92.01(8) is repealed.

5 **SECTION 10.** ATCP 92.01(11) to (13) are created to read:

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

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

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

13 **SECTION 11.** ATCP 92.02(1) is amended to read:

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

19 **SECTION 12.** ATCP 92.02(2) is repealed and recreated to read:

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

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

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

3 **SECTION 13.** ATCP 92.02(2)(b)(note) is created to read:

4 *NOTE:* Devices certified under par. (b) are commonly known as “NTEP-approved”
5 devices.

6
7 **SECTION 14.** ATCP 92.03(title) is renumbered 92.30(title) and amended to read:

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

9 **SECTION 15.** ATCP 92.03(1) to (8) and (note) are renumbered 92.30(1) to (8) and
10 (note).

11 **SECTION 16.** ATCP 92.05(title) is repealed.

12 **SECTION 17.** ATCP 92.05(1) to (4) are renumbered ATCP 92.40 to 92.43.

13 **SECTION 18.** Chapter ATCP 92 subchapter II is created to read:

14 **SUBCHAPTER II**
15 **STATE AND MUNICIPAL PROGRAMS**

16
17 **ATCP 92.04 Municipal program components.** A municipal weights and measures
18 program under s. 98.04, Stats., shall inspect and test all the following for compliance with
19 applicable requirements under ch. 98, Stats., this chapter, and chs. ATCP 90 and 91:

20 (1) Commodities.

21 (2) Liquid measuring devices.

22 (3) Scales.

23 (4) Weighing, measuring and price verification systems.

24 (5) Timing devices.

25 (6) Linear measuring devices.

26 **ATCP 92.06 Inspection procedures and equipment.** (1) GENERAL. Inspectors
27 shall inspect weights and measures according to ch. 98, Stats., this chapter, and chs. ATCP 90

1 and 91. An inspection, and the equipment used to make it, shall comply with all of the
2 following that apply to that type of inspection:

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

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

8 (2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall
9 comply with section 7 “test procedures” from the chapter titled “examination procedure for
10 price verification,” national institute of standards and technology handbook 130 (uniform laws
11 and regulation in the areas of legal metrology and engine fuel quality), 2003 edition.

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

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

21
22 **ATCP 92.08 Inspector hiring and training.** (1) HIRING. A municipality that has a
23 weights and measures program under s. 98.04, Stats., shall hire its inspectors from a list of
24 applicants whose qualifications have been certified by the state or local civil service agency
25 under the rules of the agency. A municipality may hire or contract with an inspector who is not
26 a permanent civil service employee, provided that an open recruitment or bidding process is
27 used to recruit, evaluate and certify the qualifications of prospective inspectors.

1 **NOTE:** See s. 98.04, Stats.

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

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

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

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

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

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

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

22 (c) The number and types of establishments inspected.

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

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

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

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

5 (h) Other relevant information required by the department.

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

8
9 Wisconsin Department of Agriculture, Trade and Consumer Protection
10 Division of Trade and Consumer Protection
11 Weights & Measures Program
12 P.O. Box 8911
13 Madison, WI 53708-8911.

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

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

20 **SUBCHAPTER III**
21 **WEIGHTS AND MEASURES SERVICE COMPANIES**
22

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

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

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

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

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

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

8 **NOTE:** You may obtain application forms by writing to:

9

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

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

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

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

21 1. A basic license fee of \$250.

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

25 (c) A surcharge of \$200 if the department determines that, within one year before
26 submitting the license application, the applicant operated without a license in violation of sub.
27 (1).

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

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

5
6 (4) DENYING, SUSPENDING OR REVOKING A LICENSE. The department may deny,
7 suspend or revoke a license under sub. (1) for cause, pursuant to s. 93.06(7), Stats., and ch.
8 ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

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

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

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

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

18
19 1. Remove an official rejection tag or mark applied under s. ATCP 92.09(2).

20
21 2. Test, calibrate, service or seal a weighing or measuring device.

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

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

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

27

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

- 5 1. The individual's full name (first, middle and last) and birth date.
- 6 2. Proof that the individual has met the examination requirement under sub. (3)(a), or
7 is currently certified by another state as provided in sub. (3)(b).

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

9

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

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

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

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

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

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

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

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

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

6
7 Wisconsin Department of Agriculture, Trade and Consumer Protection
8 Division of Trade and Consumer Protection
9 Weights & Measures Program
10 P.O. Box 8911
11 Madison, WI 53708-8911.

12 (c) Whenever the department receives a complete application under par. (b), the
13 department or its agent shall schedule an examination date with the applicant. The
14 examination date shall be not later than 60 days after the date on which the department receives
15 the complete application, unless the applicant agrees to a later date. (4)

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

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

24
25 (5) ACTION ON CERTIFICATION. The department shall grant or deny an application
26 under sub. (2) within 45 days after the examination date under sub. (3)(c) except that, if no
27 examination is required under sub. (3), the department shall grant or deny an application under
28 sub. (2) within 45 days after the department receives a complete application.

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

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

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

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

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

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

16 (c) Use equipment and standards that comply with sub. (2).
17

18 (d) Affix a security seal to any adjustment mechanism that is designed to be sealed.

19 The security seal shall identify the weights and measures service company and individual
20 technician by name, initials or other unique identifiers.

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

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

1 **ATCP 92.23 Weights and measures service companies; reports.** (1) REPORT

2 REQUIRED. A weights and measures service company shall prepare a written report whenever it
3 installs, services, tests or calibrates a weighing or measuring device. The weights and
4 measures technician who performs the work on behalf of the service company shall prepare
5 and sign the report. The report shall include all the following:

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

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

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

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

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

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

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

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

- 1 (a) The owner or operator of the device.
- 2 (b) The department if the service company returns to service a device rejected by the
3 department.
- 4 (c) The municipality if the service company returns to service a device rejected by the
5 municipality.
- 6 (3) **KEEPING COPIES.** A weights and measures service company shall keep a copy of
7 every report under sub. (1) for at least 2 years after the report is created.

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

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

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

22 **SUBCHAPTER IV**
23 **VEHICLE AND LIVESTOCK SCALES**

24 **SECTION 21.** ATCP 92.31 is created to read:
25

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

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

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

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

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

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

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

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

19 (4) ACTION ON LICENSE APPLICATION. The department shall grant or deny a license
20 application under sub. (2) within 20 business days after the department receives a complete
21 application.
22

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

25 **SECTION 22.** Chapter ATCP 92 subchapter V(title), inserted prior to s. ATCP 92.40, is
26 created to read:

27 **SUBCHAPTER V**

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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