

Enforcement Action

Last Revision: January 29, 2015

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Background

Under Chapter 98.05(2), Wis. Stats., sealers and inspectors:

"shall inspect and test any weights and measures or commodities which are sold or used commercially as often as necessary to secure compliance with this chapter, and may seize as evidence, or reject and mark or tag as "rejected" those which are incorrect."

Possessing this authority, inspectors have a variety of enforcement tools available to ensure compliance.

Policy

The following enforcement actions should be considered when an LPG meter is found to be inaccurate or incorrect:

Action Pending:

The device has errors in excess of applicable tolerance limits; under-registration/ over-delivering product. It is the owner's discretion to repair the device or not.

Reject 7-days:



1. Errors in excess of applicable tolerance limits; over-registration/ under-delivering product.
2. Temperature compensator malfunction causing over-registration errors in excess of applicable tolerance limits.
3. Failure of volume preset (when equipped) to stop delivery of product within 1/2 minimum graduation (typically 1/2 of 1/10 gal.) of preset volume.
4. The register is not equipped with ticket printer.

Reject 30-days:

The device has a specification issue that needs attention prior to the next inspection and requires a longer period of time for scheduling of a service company. Additional time can be given on an individual basis as advised by the inspector.

Red Tag:

1. Failure to correct previously identified violations.
2. The device is not licensed and does not have a current private service company test report.
3. Over-registration errors exceeding twice the applicable tolerance limit.
4. The device exceeds tolerance limits and has broken or missing security seals.
5. Any condition which, based on the inspector's judgment, is a safety hazard.

 [Wis. Stats. 98.05\(2\)](#)
 [NIST Handbook 44](#)
Sec. 1.10 General Code &
Sec. 3.32 LPG and
Anhydrous Ammonia
Liquid-Measuring Devices

6. A combination of violations, either performance or specifications, which would indicate the owner does not maintain the equipment sufficiently to ensure accuracy and correctness and poses a significant economic loss to consumers.

Warning Letter - Should be considered when:

1. Sharing of information and education has previously been exercised and has failed to achieve compliance.
2. Upon re-inspection, the same or similar deficiencies are found.
3. Deficiencies found are so egregious that taking the device out of service is not sufficient as the only enforcement action taken.

Formal Legal Action - One should consult with his/her supervisor to consider formal legal action whenever any of the following conditions exist:

1. A re-inspection of a previously rejected device is in use and indicates the same deficiency.
2. A re-inspection after a warning letter indicates the deficiency still exists and the device is in use.
3. A history of prior violations exists and, as a result of a consumer complaint, an investigation reveals conditions which would warrant rejecting the device and ordering it out of service.
4. Evidence reveals an unwillingness to comply with regulations.
5. Conditions systematically facilitate fraud.

For an individual LPG meter:

- Less than 2% error rate and greater than 1% -- reject 7-days and note on the report.
- Over-registration errors at twice the applicable tolerance -- RED TAG and WARNING LETTER.
- Over-registration errors exceeding twice the applicable tolerance -- RED TAG and ASSURANCE OF DISCONTINUANCE with the company's corporate headquarters.
- Over-registration errors exceeding three or more times the applicable tolerance -- Consult your supervisor for higher levels of enforcement.

For LPG meters at one location:

- If **3 or more** meters at one location exceed a tolerance of 1% over-registration/under-delivery consult the Uniform Enforcement Policy for increased levels of enforcement.
- Past violations should be considered when choosing the appropriate level of enforcement (Significance of Error vs. Compliance History).

***NOTE:** If there are extenuating circumstances that lead the inspector to deviate from the above course of action it should be documented on the test report.

*Effective Date: December 1, 2004
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