

# WEST VIRGINIA DIVISION OF LABOR

## WEIGHTS & MEASURES

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# Voluntary Registration of Service Agencies & Service Persons



## Policy Guide

## Code for Service Agency & Service Persons

### **§47-1-8. Requirements for the registration of service persons and service agencies for commercial weighing and measuring devices.**

(a) The uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices as adopted by The National Conference of Weights and Measures and published in National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations and supplements thereto or revisions thereof, shall apply to the registration of service persons and service agencies in the state, except insofar as modified or rejected by legislative rule.

### **§47-1-10. Requirements for type evaluation.**

The uniform regulation for National Type Evaluation (NTEP) as adopted by the National Conference on Weights and Measures and published in National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations and supplements thereto and revisions thereof, shall apply to type evaluation in the state, except insofar as modified or rejected by legislative rule.

### **§47-1-22. Civil penalties.**

(a) No person shall:

- (1) Use or have in possession for use in commerce any incorrect weight or measure;
- (2) Sell or offer for sale for use in commerce any incorrect weight or measure;
- (3) Remove any tag, seal or mark from any weight or measure, without specific authorization from the Weights and Measures Section; or
- (4) Violate any provisions of this article or rules promulgated under it, not defined in subsection (a), section twenty-three of this article.

(b) Any person who violates subsection (a) of this section or any rule promulgated by the commissioner may be assessed a civil penalty by the commissioner, which penalty may not be more than \$1,000 for each violation. Each violation shall constitute a separate offense. In determining the amount of the penalty, the commissioner shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

(c) All civil penalties paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund for use by the commissioner for the implementation and enforcement of this article. Amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligation.

(d) A civil penalty may be assessed by the commissioner only after the commissioner has given at least ten days' notice to the person. Notice shall be in writing, shall contain a short, plain statement of the matter asserted, and shall designate a time and place for a hearing where the person may show cause why the civil penalty should not be imposed. Notice of hearing shall be sent by certified mail. The person may, at the time designated for the hearing, produce evidence on his or her behalf and be represented by counsel.

(e) Any person aggrieved by a decision of the commissioner shall have the right to a contested case hearing under the provisions of article five, chapter twenty-nine-a of this code, *et seq.*

### **§47-1-23. Criminal penalties.**

(a) No person shall:

- (1) Hinder or obstruct any weights and measures official in the performance of his duties;
- (2) Impersonate in any way the commissioner, his assistants, deputies or inspectors;
- (3) Use in commerce any weight or measure which has not been inspected and approved by the commissioner of weights and measures or his or her authorized inspectors or deputies; or
- (4) Use or have in his or her possession for the purpose of selling or using any device or instrument to be used to or calculated to falsify any weight or measure.

(b) Any person who, by himself or herself or by his or her servant or agent, or as the servant or agent of another person, knowingly violates subsection (a) of this section, is guilty of a misdemeanor, and, upon a first conviction, shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both fined and imprisoned; and upon a second or subsequent conviction, he or she shall be fined not less than one hundred nor more than one thousand dollars, or imprisoned for not more than six months, or both fined and imprisoned.

# Weights and Measures

## Service Agency / Service Person Registration Program Policy

Effective March 30, 1994, Chapter 47 of the West Virginia Code was revised to include Section 47-1-8, which adopts NIST Handbook 130. This policy relates specifically to the “Uniform Regulation for the Voluntary Registration of Service Persons and Service Agencies for Commercial Weighing and Measuring Devices”.

### THE PRIVILEGES OF REGISTRATION

**REGISTERED** service agencies and persons will be permitted to place new devices into commercial service or return to service any devices which have been condemned or rejected by a Weights and Measures official after repairs, recalibration, and by following the procedures listed in this policy, including the submission of the proper forms to the Weights and Measures office.

**NON-REGISTERED** service agencies and persons may repair, recalibrate, or service devices but they *may not* place or return devices into commercial service. These devices may only be placed into service by a Weights and Measures official or a registered service agency or person.

By registering, agencies and persons are, in effect, taking the place of Weights and Measures inspectors, and must follow all applicable codes, rules, policies, and requirements. They may be fined, and/or their registration status may be suspended or revoked for violations of this policy.

### REGISTRATION IS VOLUNTARY; HOWEVER, THE FOLLOWING REQUIREMENTS APPLY:

#### 1. Complete WM Form 310 Application for Service Agency Registration, WM Form 311 Application for Service Person Registration, and certify that the applicant(s):

- a) Are qualified to install, service, or repair devices within the device category being registered, and
- b) Have in their possession or available for use, and will use, all necessary testing equipment and appropriate standards to adequately test devices as set forth in the “NOTES” section of each applicable section of NIST Handbook 44, and in accordance with procedures set forth in NIST Handbook 112, and
- c) Has full knowledge of all appropriate weights and measures laws, orders, rules, policies, and regulations.

#### 2. Have current editions of each publication available for reference and use.

- a) NIST Handbook 44, “Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices”, and
- b) NIST Handbook 130, “Uniform Laws and Regulations”, and
- c) NIST Handbook 112, “Examination Procedure Outlines for Weighing and Measuring Devices.” (may be obtained from the NCWM website: <https://www.ncwm.net/publications>)

#### 3. Utilize approved security seals which have been submitted to W&M and meet the following requirements:

- a) Be of a type compliant with NIST Handbook 44; Section 2.20. Para. S.1.11.
- b) Must uniquely identify the service agency or person by initials or design.
- c) Must be utilized in a manner that requires the seal to be broken before adjustment can be made to any component affecting the metrological calibration of the device.

#### **4. Maintain and utilize appropriate standards for calibration and testing of devices.**

- a) Service agencies and persons must use the minimum standards for testing devices as required in the "Notes" section of each applicable section of NIST Handbook 44. Standards used in West Virginia must be calibrated by an accredited metrology laboratory, according to the calibration intervals set out on Page 4 of this policy. It is the service agency's responsibility to maintain their standards and schedule them for calibration at the required intervals.
  - i. See attached schedule of required calibration intervals for standards. (Page 4)
  - ii. Example: To test a 30 lb electronic scale with graduations of 0.01 lb (30 X 0.01 lb), the minimum required standard is a 30 lb weight kit (to test to full capacity), including fractional/decimal weights (to test to the minimum graduation).
  - iii. Example: To test a fuel meter with a normal rate flow rate >25 gpm (gal per minute), but less than 50 gpm, at least a 50 gal prover is required. The prover used must be large enough to contain a full / normal flow rate for one (1) minute. For flow rates less than 25 gpm, a 5 gal prover may be used.
  - iv. Example: To test a 200,000 lb vehicle scale with 20 lb graduations (200,000 X 20 lb) you must have a minimum of 25,000 lb of calibrated test weights including a calibrated test cart and smaller sensitivity weights up to 30 lb.
- b) If standards are calibrated at an accredited laboratory other than the West Virginia Metrology Laboratory, copies of the current calibration certificates must be submitted to West Virginia Weights and Measures each time they are recalibrated.
- c) A copy of the current calibration certificate must accompany the standards at all times.

#### **Certificates of Registration for service agencies and service persons expire 1 year from date of issue, at which time, service agencies and persons must renew their registrations.**

- a) A notification will be sent to each service agency or person that their registration is scheduled to expire containing a list of currently registered persons.
- b) The agency must submit a new application with any corrections or additions to the list to the Weights and Measures Office prior to the expiration date. This should also include address and phone number changes.
- c) Each service person must also renew their registration by submitting a new registration application with their current address and phone number.
- d) Failure to renew will result in the agency or person being placed on an "inactive status", and loss of privileges until the registration is renewed.

# Calibration Intervals

The following are standards calibrated by the West Virginia Metrology Laboratory and the calibration interval for each.

| Equipment                       | Traceability Period |
|---------------------------------|---------------------|
| <b>Weight Kits:</b>             |                     |
| AV Weight Kit (30 lb) .....     | 1 year              |
| Metric Weight Kits .....        | 1 year              |
| <b>Cast Iron Weights:</b>       |                     |
| Service Company Weights .....   | 1 year              |
| Construction ("b" ID) .....     | 2 years             |
| Coal Load Out (>2,000 lb) ..... | 5 years             |
| Weight Carts .....              | 1 year              |
| All others .....                | 1 year              |
| <b>Volume:</b>                  |                     |
| 1 gal .....                     | 1 year              |
| 5 gal .....                     | 1 year              |
| 50 gal to 200 gal .....         | 1 year              |
| LPG provers .....               | 5 years             |
| >200 gal provers .....          | 5 years             |

To schedule a calibration with our Metrologists, please call before your standards are due.

Weights & Measures Metrology Laboratory  
570 MacCorkle Ave SW  
St. Albans, WV 25177  
(304) 722-0602

***Payment for calibrations are due when services are rendered.***

Laboratory Calibration Fee Schedule: <https://labor.wv.gov/Weights-Measures/Pages/Laboratory.aspx>

## Publication Availability

**NIST Handbooks 44 and 130 are published annually and current editions of these handbooks are required for registered agencies.**

**NIST Handbook 44** - Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices

**NIST Handbook 130** - Uniform Laws and Regulations

**NIST EPO Handbook 112** - Examination Procedure Outlines for Weighing and Measuring Devices

All Handbooks are available on the following websites

- I. <https://www.ncwm.net/publications>
- II. <https://www.nist.gov/pml/weights-and-measures/publications/nist-handbooks>

**Note:** Handbook 44 and Handbook 130 are furnished as part of membership in the National Conference on Weights and Measures (NCWM).

## REQUEST FOR ASSISTANCE (RFA)

A Request for Assistance (RFA) is assigned to service work being performed on a commercial weighing or measuring device in West Virginia. A unique number is assigned which allows W&M to track the RFA. RFAs remain active until an inspector completes his or her investigation and closes the RFA.

There are several reasons to issue an RFA and each may have different priorities as to the timeliness of the response. A few examples are:

- a. Consumer Complaint
- b. Service agency responding to a device rejection by W&M
- c. Service agency providing emergency repair
- d. Service agency providing routine maintenance or repairs
- e. Service agency installing new equipment

Service agencies must follow the established procedures as set forth in the Service Agency Registration Section of the code and Handbook 130. It is also the inspector's responsibility to follow these guidelines.

During the initial contact, the office staff will obtain all pertinent information regarding the service to be performed. An RFA will not be issued if all necessary information cannot be provided. If there are any issues, please speak with a supervisor or the director.

## Guidelines

### PLACING A NEW OR REPAIRED DEVICE INTO SERVICE

1. **Obtain an RFA:** Call (304-722-0602) or Email ([weights@wv.gov](mailto:weights@wv.gov)) with all required information.
  - a. **Required Information**
    - i. Location of the business and the device.
    - ii. Manufacturer, Model, and NTEP CoC number of the new device.
      1. If used commercially, all new devices must be **NTEP** approved. Check with the manufacturer or W&M to insure the device has an NTEP Certificate of Conformance prior to purchase. Certificates of Conformance may be found at: [www.ntep.nist.gov/ntep/DatabaseSearch.asp](http://www.ntep.nist.gov/ntep/DatabaseSearch.asp).
    - iii. Date of the installation
      1. A minimum notice of 48 hours should be given for installation.

### REQUIREMENT OF TEN (10) WORKING DAY NOTICE

W&M requires at least ten (10) working days' notice for installations in certain situations. This is required in order to schedule an inspector to be present during the installation. This should eliminate the need for W&M to take the device back out of service to duplicate the test. If we are unable to schedule an inspector within 10 days, then the device(s) may be placed into service on a WM Form 301B. The following examples would require 10 days' notice:

1. New vehicle or hopper scale installation.
2. Installation of multiple retail motor fuel meters.
3. Installation of multiple retail grocery scales.

*All requirements are in working days and do not include weekends or holidays*

## SCHEDULING WITH AN INSPECTOR

When the RFA is obtained by the service agency or person, it will also be assigned to an inspector. The inspector will contact the service agency or person to schedule the inspection. It is the service agency's responsibility to contact the Weights & Measures office to obtain an RFA. When an inspector receives a call from a service agency, the inspector should ask if they have obtained an RFA. If they have not, the inspector may not schedule the inspection.

## WHAT TO DO IF A WEIGHTS AND MEASURES INSPECTOR IS NOT AVAILABLE

1. If a W&M inspector is not available, you will be permitted to place the device(s) into service using WM Form 301B. You must run all the appropriate Handbook 44 tests using the appropriate EPO's. Some devices require specific tests before final approval.
  - a. **Example: Meters, including Vehicle Tank Meters and LPG (Trucks & Stationary) require a minimum of 100 gal of fuel to be purged prior to any start-up calibration and subsequent approval by Weights and Measures**
2. Once the device is calibrated, install your company's security seal to the adjustment components of the device. The security seal must be intact when W&M inspects the device for official sealing. It insures that the device has not been tampered with since you performed your calibration.
  - a. **All factory seals must be replaced with your seal.**
3. Complete the WM Form 301B including the RFA number, standards used to calibrate, and all necessary device information. You must submit the completed 301B to W&M within 24 hours of completion including weekends. Completed 301Bs may be submitted to:
  - a. [weights@wv.gov](mailto:weights@wv.gov)
  - b. Fax – 304-722-0605

## ADJUSTMENTS MADE DURING “ROUTINE SERVICE CALLS” WITH NO RFA NUMBER

W&M understands that you may have contractual agreements for routine service with your clients. Most of the time W&M does not require notification regarding routine scheduled service calls. However, if calibrations or adjustments are made that will require the security seal to be broken, Weights and Measures must be notified and an RFA must be obtained.

Regular business hours for Weights and Measures are 8:00 am to 4:00 pm Monday – Friday.

**For work done after normal business hours**, submission of a 301B will suffice as notification. You must list all work performed on that device(s) and in the space for the RFA number you must write the words “AFTER-HOURS”.

***If you believe that you will be adjusting or calibrating, you must obtain an RFA before you begin.***



## EMERGENCY SERVICE CALLS

An emergency is when a device owner contacts a service agency **AFTER** W&M has closed and the device requires immediate service. In this case, the service person must write “**EMERGENCY**” in the RFA number box on the 301B. Then it must be submitted within 24 hours of the completed service.

***Scheduled work performed after hours does not constitute an emergency and requires an RFA.***

Emergency Examples:

- A retail fuel dispenser is hit by a car.
- Truck scale indicator has been damaged by lightning.

Service agencies have no control of emergencies and must respond to their customers. However, frequent use of emergency 301Bs will be investigated and may lead to penalties or suspension of registration.

## SERVICING A DEVICE REJECTED BY A WEIGHTS AND MEASURES INSPECTOR

When a device is rejected by W&M, a WM Form 301 “NOTICE OF DEVICE REJECTION” will be left with the device owner. The service person will note all repairs or calibrations on the WM Form 301 and submit it to W&M within 24 hours of completed service. **NO RFA IS REQUIRED.**

It is the responsibility of the business to supply the WM Form 301 to the service company or person. If the WM Form 301 is not at the location or has been misplaced, the service company may service the device, but they must generate a WM Form 301B and state specifically that the WM Form 301 was not available.

IF YOU HAVE ANY QUESTIONS ABOUT ANY PROVISION OF THIS POLICY, PLEASE CONTACT  
THE WEIGHTS & MEASURES OFFICE

West Virginia Division of Labor

**Weights & Measures**

570 MacCorkle Ave SW

St. Albans, WV 25177

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THANK YOU FOR PARTICIPATING IN THIS VOLUNTARY REGISTRATION PROGRAM