

RCW 19.94.190 Enforcement—Rules—Penalties. (1) The director and duly appointed city sealers must enforce the provisions of this chapter.

(2) The department's enforcement proceedings under this chapter are subject to the requirement to provide technical assistance in chapter 43.05 RCW and the administrative procedure act, chapter 34.05 RCW. City sealers undertaking enforcement actions must provide equivalent procedures.

(3) In assessing the amount of a civil penalty, the department or city must give due consideration to the gravity of the violation and history of previous violations.

(4) The director must adopt rules for enforcing and carrying out the purposes of this chapter including but not limited to the following:

(a) Establishing state standards of weight, measure, or count, and reasonable standards of fill for any commodity in package form;

(b) The establishment of technical test procedures to be followed, any necessary report and record forms, and marks of rejection to be used by the director and city sealers in the discharge of their official duties as required by this chapter;

(c) The establishment of technical test procedures, reporting procedures, and any necessary record and reporting forms to be used by service agents when testing and inspecting instruments or devices under RCW 19.94.255(3) or when otherwise installing, repairing, inspecting, or standardizing the graduations of any weighing or measuring instruments or devices;

(d) The establishment of exemptions from the marking or tagging requirements of RCW 19.94.250 with respect to weighing or measuring instruments or devices of such a character or size that the marking or tagging would be inappropriate, impracticable, or damaging to the apparatus in question;

(e) The establishment of exemptions from the inspection and testing requirements of RCW 19.94.163 with respect to classes of weighing or measuring instruments or devices found to be of such a character that periodic inspection and testing is unnecessary to ensure continued accuracy;

(f) The establishment of inspection and approval techniques, if any, to be used with respect to classes of weighing or measuring instruments or devices that are designed specifically to be used commercially only once and then discarded, or are uniformly mass-produced by means of a mold or die and are not individually adjustable;

(g) The establishment of inspection and testing procedures to be used for classes of weighing or measuring instruments or devices found to be few in number, highly complex, and of such character that differential or special inspection and testing is necessary, including railroad track scales. The department's procedures shall include requirements for the provision, maintenance, and transport of any weight or measure necessary for the inspection and testing at no expense to the state;

(h) Specifications, tolerances, and other technical requirements for commercial weighing and measuring instruments or devices that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 except where modified to achieve state objectives; and

(i) Packaging, labeling, and method of sale of commodities that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 and 130 (for legal metrology and engine fuel quality) except where modified to achieve state objectives.

(5) Rules adopted under this section must also include specifications and tolerances for the acceptable range of accuracy required of weighing or measuring instruments or devices and must be designed to eliminate from use, without prejudice to weighing or measuring instruments or devices that conform as closely as practicable to official specifications and tolerances, those that: (a) Are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly; or (b) facilitate the perpetration of fraud.

(6) Rules adopted by the director related to the sale of electricity sold as a vehicle fuel and electric vehicle fueling systems may take effect no earlier than January 1, 2024, and may be modified to achieve state objectives, reviewed, and, if necessary, amended, to maintain consistency with evolving technology. To ensure existing infrastructure may continue operating without substantial equipment replacement or alteration, electric vehicle supply equipment installed and placed into service before January 1, 2024, is exempt from the rules of this section until January 1, 2034. Electric vehicle supply equipment that is replaced or retrofitted with new hardware after January 1, 2024, must be considered as having been installed and placed into service after January 1, 2024.

(a) Exempt electric vehicle supply equipment installed and placed into service before January 1, 2024, must:

(i) Comply with RCW 19.94.175; and

(ii) Be clearly marked, identifying the date of installation.

(b) For the purpose of this subsection (6), "retrofitted" means a substantial modification outside of normal wear and tear maintenance. [2021 c 238 s 9; 2019 c 96 s 4; 1995 c 355 s 9; 1992 c 237 s 9; 1991 sp.s. c 23 s 6; 1989 c 354 s 36; 1977 ex.s. c 26 s 5; 1969 c 67 s 19.]

Effective date—2019 c 96: See note following RCW 19.94.160.

Application—Effective dates—1995 c 355: See notes following RCW 19.94.015.

Legislative findings—Intent—1991 sp.s. c 23: See notes following RCW 19.94.150.

Severability—1989 c 354: See note following RCW 15.36.012.