



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: October 24, 2000

(2) Purpose: This rule clarifies and strengthens the rules specifying the registration and responsibilities of service agents. This rulemaking accomplishes the intent of EO 97-02, Regulatory Improvement.

This also repeals WAC 16-674-092, Service Agent Registration

(3) Citation of existing rules affected by this order:

Repealed: WAC 16-674-092

Amended:

Suspended:

(4) Statutory authority for adoption: RCW 19.94.010, RCW 19.94.190

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-17-184 on 8/23/00 (date) and WSR 00-18-010 on 8/23/00

Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

CODE REVISER USE ONLY

- | | |
|--|--|
| Permanent Rules
or Expedited Repeal | Emergency Rules |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____* | <input type="checkbox"/> Later (specify) |

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Jim Jesernig

Signature

Title

Director

Date

10/18/00

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 20 2000

TIME 8:43 AM

WSR 00-22002

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed
Recently enacted state statutes:	New	Amended	Repealed

The number of sections adopted at the request of nongovernmental entity:

New	Amended	Repealed
-----	---------	----------

The number of sections adopted in the agency's own initiative:

New	Amended	Repealed
-----	---------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	Repealed
-----	---------	----------

The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed
Pilot rule making:	New	Amended	Repealed
Other alternative rule making:	New	Amended	Repealed

Chapter 16-663 WAC

SERVICE AGENTS--REPORTING, TEST PROCEDURES ((AND)), STANDARDS
((BY PERSONS SERVICING AND CALIBRATING)) AND CALIBRATION OF
WEIGHING AND MEASURING DEVICES

NEW SECTION

WAC 16-663-100 Purpose. The following regulation addresses the mandatory registration, rights and responsibilities of service agents involved in installing, servicing and calibrating weighing and measuring devices. The rule addresses reporting devices placed in service, test procedures, reporting forms and submission of test standards by persons servicing and calibrating weighing and measuring devices.

NEW SECTION

WAC 16-663-110 Definitions. (1) Installation - setting up for use, connecting or adjusting any new, used or remanufactured commercial weighing or measuring device being placed into service.

(2) Placed in service - to cause or permit the commercial usage of any commercial weighing or measuring device.

(3) Returned to service - the instance where servicepersons or service agencies are called upon to service, repair, or recondition a commercial weighing or measuring device that has been "rejected," ordered "out of service," or "condemned" by weights and measures officials with the intent of placing such a device back into service.

(4) Registered serviceperson - any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and who registers himself as such with the director.

(5) Registered service agent - any agent, firm, partnership, company, or corporation, which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which registers with the director.

(6) Commercial weighing and measuring device - any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight, measure or count. It shall include any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is designed or installed so that its operation affects, or may affect, the accuracy, correctness, or indication of the device.

(7) Reciprocity - the mutual cooperative interchange of rights and agreements between any other state or states that have similar rules and laws concerning registered service agents and recognition of standards.

(8) Laboratory - the metrology laboratory of any state, agency, or any recognized private industry metrology laboratory as determined by the director. All such laboratories must possess current appropriate National Institute of Standards and Technology (NIST) certifications.

(9) Accuracy - commercial weighing or measuring devices are considered accurate when the performance or value - that is, its indications, its deliveries, its recorded representations, or its capacity or actual value, etc., as determined by tests made with suitable standards - conforms to the standards, tolerances and other performance requirements set forth in the edition of National Institute of Standards and Technology Handbook 44 currently adopted by the director.

(10) Correct - a weighing or measuring device is considered correct when in addition to being accurate, it meets all applicable specifications and requirements as set forth in the edition of National Institute of Standards and Technology Handbook 44 currently adopted by the director.

(11) Certification - a document provided by the director to service agents registered with the department.

NEW SECTION

WAC 16-663-120 Registration, certification and standards.

(1) Service agents and servicepersons who intend to provide service that permits a weighing or measuring device to be placed back into commercial service must register with the department annually. Service agents and servicepersons must register on a form provided by the department annually. The fee for registration is eighty dollars per service person. This registration requirement does not apply to city sealers.

(2) Service agents and servicepersons registering with the department will specifically state the types of devices they will

be placing in service. Such a statement is the agent's or person's certification that they are knowledgeable of the requirements of the state and possess proper and certified equipment and standards to perform the services.

(3) The registered service agent or serviceperson shall submit a copy of their tag or label, seal or seal press identification mark to the department at time of registration.

(4) The department will issue an official registration certification for each service agent and serviceperson whose application is approved. Official registration certificates are valid for a period of one year from date of registration.

(5) For requests that are denied the department will provide reasons, in writing, for the denial and refund payment.

NEW SECTION

WAC 16-663-130 Adequacy of standards and submission of standards for certification. (1) All service agents and servicepersons shall use standards of adequate quantity and design to place commercial weighing and measuring devices in service.

(2) Submission of standards for inspection. All standards used for servicing, repairing and/or calibrating commercial weighing and measuring devices must be submitted at least every two years for examination and certification. The standards will be submitted to the state's metrology laboratory or a laboratory of any state in which a reciprocity agreement has been entered. The state metrology laboratory examines and certifies standards using the current version of National Institute of Standards and Technology Handbook 105.

(3) Recognition of out-of-state certification any standard that has been inspected and examined by any state or agency in which the director has entered a reciprocity agreement will be considered correct if said examination is within the previous two-year period. Proof of inspection must be submitted to the department with the registration application.

(4) Proof of certification shall be maintained by the owner of the standards and be kept with the standards during normal usage for the purpose of inspection by the director or authorized representative.

NEW SECTION

WAC 16-663-140 Identification of work--Labels and seals. (1)

Each registered service agent and serviceperson shall identify his/her work on commercially used weighing and measuring devices by:

(a) Applying an adhesive tag or label in a conspicuous location on the device; or

(b) Using a distinctive security seal or seal press impression.

(2) The adhesive tag or label shall legibly show at least the serviceperson registration number, business telephone number and date of service.

(3) Any security seal or seal press used to comply with subsection (1) of this section shall identify the individual registered serviceperson applying the seal.

(4) The registered service agent or serviceperson shall submit a copy of the tag or label, seal or seal press identification mark to the department at time of registration.

(5) The above requirements will be effective May 1, 2001.

NEW SECTION

WAC 16-663-150 Reports and responsibilities of service agents and servicepersons. (1)

Any person installing a new or used weighing or measuring device that is being put in use for the first time at that location must provide a notice of installation to the department. The notice shall state the date placed in service, type of device, capacity, business' name and site address, and name and address of the service company installing the device. The report shall also indicate whether the device is new or used.

(2) After correcting a rejected device, registered service agents or servicepersons must return the reject report issued by the weights and measures official to the address indicated on the form within seven days from completion of work. All discrepancies noted on the department's rejection report must be corrected before returning the device to service. The form must be signed and dated by the registered serviceperson returning the device to service. The form must also legibly indicate his/her registration number and show the number or identifying mark of security seals that were removed and applied to affect the correction.

(3) A registered service agent or serviceperson will submit a copy of his/her test report showing the as-found and as-corrected readings with the reject report when putting a rejected device back into service.

(4) Commercially used weighing or measuring devices put into service or returned to service must be correct and meet all applicable specifications and requirements set forth in the edition

of National Institute of Standards and Technology Handbook 44 currently adopted by the director. The device must also meet current (NTEP) requirements in effect for the device.

(5) Devices must be installed in accordance with manufacturer's instructions.

(6) A device installed in a fixed location must be installed so that its operation or performance will not be adversely affected by any characteristic of the foundation, supports, or any other detail of the installation.

(7) Equipment must be installed in such a manner that all required markings are readily observable.

(8) A device must be installed so that it will be correct and it meets all performance requirements when associated or nonassociated equipment is operated in its usual and customary manner.

(9) Faulty installation conditions must be corrected, and any defective parts must be renewed or suitably repaired, before adjustments are made.

(10) When equipment is adjusted, the adjustment must be made so that performance errors are as close as practicable to zero value.

(11) Equipment put into service, repaired, adjusted, calibrated or refurbished must be sealed with an appropriate security seal and the seal number recorded on the inspection test report. Any security seal removed prior to servicing the device will be noted on the test report and will include the number or identifying mark of the security seal.

(12) Equipment must be assembled and installed so that it does not facilitate the perpetration of fraud.

NEW SECTION

WAC 16-663-160 Registration certificate--Revocation, suspension, refusal to renew--Appeal. (1) The department has the authority to revoke, suspend, or refuse to renew the official registration certificate of any service agent or serviceperson for any of the following reasons:

(a) Fraud or deceit in obtaining an official registration certificate;

(b) A finding by the department of a pattern of intentional fraudulent or negligent activities in the installation, inspection, testing, checking, adjusting, or systematically standardizing and approving the graduations of any weighing or measuring instrument or device;

(c) Knowingly placing back into commercial service any weighing or measuring instrument or device that is incorrect or inaccurate;

(d) A violation of any provision of this chapter; or

(e) Conviction of a crime or an act constituting a crime under the laws of this state, the laws of another state, or federal law.

(2) If the department revokes, suspends, or refuses to renew an official registration certificate, an individual will have the right to appeal the decision in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and RCW 19.94.2584.

NEW SECTION

WAC 16-663-170 Unlawful practices--Penalties. Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, violates the provisions of this rule is subject to a civil penalty of up to five thousand dollars as specified in RCW 19.94.510.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-663-001	Promulgation.
WAC 16-663-010	A regulation of weights and measures servicemen--Relating to reporting and test procedures-- Reporting forms and submission of testing standards by persons servicing and calibrating commercial weighing and measuring devices--Definitions.
WAC 16-663-020	Submission of standards.
WAC 16-663-030	Availability of adequate standards.
WAC 16-663-040	Reports to be filed by serviceman or service agency.
WAC 16-663-050	Unlawful practices--Penalty.
WAC 16-663-060	Effective date.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-674-092

Service agent registration.