



# RULE-MAKING ORDER

CR-103 (7/10/97)

(RCW 34.05.360)

Agency: Agriculture

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

(1) Date of adoption: December 5, 1997

(2) Purpose: To correct the adopted National Type Evaluation Program rule by adding the dates to 16-664-040(3), (4), (5), (6) and (7).

(3) Citation of existing rules affected by this order: 16-664-040(3), (4), (5), (6) and (7).

Repealed: Not Applicable

Amended: 16-664-040(3), (4), (5), (6) and (7).

Suspended: Not Applicable

(4) Statutory authority for adoption: RCW 19.94.190 and 195

Other Authority: None

### PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 97-20-127 on Oct. 15, 1997 (date).

Describe any changes other than editing from proposed to adopted version: None

### 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:

Permanent Rules  
or Expedited Repeal

- 31 days after filing
- Other (specify) \_\_\_\_\_\*

Emergency Rules

- Immediately
- 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)  
James M. Jesernig

Signature

Title  
Director

Date  
December 5, 1997

### CODE REVISER USE ONLY

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

DEC 5 1997

TIME 3:02

WSR 98-01-014

AM  
PM

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 97-12-076, filed 6/4/97, effective 7/5/97)

**WAC 16-664-040 Commercial and law enforcement equipment--Certificate of Conformance--Requirements--Exemptions--One-of-kind device--Repaired device--Remanufactured device--Device copy--Components.** (1) Except for a device exempted under subsection (6) of this section, no person shall sell a device, within the state of Washington, unless it is traceable to a Certificate of Conformance. Certificate of Conformance documentation must be provided as part of the sales transaction.

(2) No person shall use a device within the state of Washington, unless it is traceable to a Certificate of Conformance, except when the device is exempted by subsection (3), (4), or (5) of this section. Certificate of Conformance documentation must be maintained at the device location.

(3) A device in service in Washington prior to (~~1997~~) July 5, 1997, that meets the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44, is not required to be traceable to a Certificate of Conformance.

(4) A device in service in Washington prior to (~~1997~~) July 5, 1997, removed from service by the owner or on which the department has issued a removal order after (~~1997~~) July 5, 1997, and returned to service at a later date shall be modified to meet all specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 effective on the date of the return to service. Such a device is not required to be traceable to a Certificate of Conformance.

(5) A device in service in Washington prior to (~~1997~~) July 5, 1997, which is repaired after such date shall meet the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 is not required to be traceable to a Certificate of Conformance.

(6) A device in service in Washington prior to (~~1997~~) July 5, 1997, and sold after such date shall be modified by the seller to meet the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 on or before the date sold, unless the buyer and seller agree by written contract to exchange the modification responsibility in which case modification must be completed before further commercial application. Such commercial weighing or measuring device is not required to be traceable to a Certificate of Conformance.

(7) A device in service in another state prior to (~~1997~~) July 5, 1997, may be installed in Washington; however, the device shall meet the specifications, tolerances, and technical requirement for weighing and measuring devices in National Institute of Standards and Technology Handbook 44 and be traceable to a Certificate of Conformance.

(8) One-of-a-kind device -- A "one-of-a-kind" device is not required to be traceable to a Certificate of Conformance. However, if the manufacturer decides to make an additional device or devices, the device will no longer be considered to be "one-of-a-kind" and it shall be traceable to a Certificate of Conformance. For scales, the load cells and electronic indicators must be traceable to a Certificate of Conformance.

(9) Repaired device -- If a person makes changes to a device to the extent that the metrological characteristics are changed, that specific device is no longer traceable to the Certificate of Conformance.

(10) Remanufactured device -- If a person repairs or remanufactures a device, they are obligated to repair or remanufacture it consistent with the manufacturer's original design; otherwise, that specific device is no longer traceable to a Certificate of Conformance.

(11) Copy of a device -- The manufacturer who copies the design of a device that is traceable to a Certificate of Conformance, but which is made by another company, must obtain a separate Certificate of Conformance for the device. The Certificate of Conformance for the original device shall not apply to the copy.

(12) Device components -- If a person buys a load cell(s) and an indicating element that are traceable to Certificates of Conformance and then manufactures a device from the parts, that person shall obtain a Certificate of Conformance for the device.