



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules *(After completing all of Sections 1 through 3, proceed to Section 5 below)*

Regular Rules

1. General Information

a. Agency/Board Name Wyoming Department of Agriculture		
b. Agency/Board Address 2219 Carey Avenue	c. City Cheyenne	d. Zip Code 82001
e. Name of Agency Liaison Hank Uhden	f. Agency Liaison Telephone Number 307-777-6574	
g. Agency Liaison Email Address hank.uhden@wyo.gov	h. Adoption Date January 5, 2018	
i. Program General Agency, Board or Commission Rules		

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number: 18	Chapter Name: WEIGHTS & MEASURES, METROLOGY LABORATORY AND REGISTERED SERVICE TECHNICIANS	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were:

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules

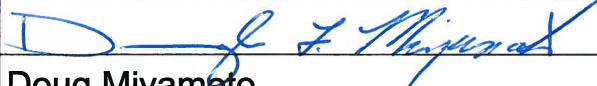
a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: **January 5, 2018**

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office: **January 5, 2018**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Doug Miyamoto
Signatory Title	Director
Date of Signature	January 5, 2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	



The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

January 5, 2018

Governor Matt Mead
Idelman Mansion
2323 Carey Ave.
Cheyenne, WY 82002-0010

RE: Extension of the Revisions to Chapter 18 Weights & Measures Regulations

Dear Governor:

The Department is nearing the release through the regular rule making process of the amendments to the Chapter 18 Weights & Measures Regulations. However, we will need to issue a second 120 day set of emergency rules to complete this process. Following is the original memo issued from the first set of emergency rules issued last September.

The Department of Agriculture recently discovered a gap in the statutory language exempting certain weights and measures from inspection by the Department. The statute exempts from the weights and measures act activities subject to the authority of the Wyoming Public Service Commission associated with pipelines and utilities. The Department always understood the language to exclude all utilities, regardless of whether a municipality owned and operated the utility. However, upon reviewing the Wyoming Public Service Commission's authority, the Commission does not regulate municipal utilities. Therefore, the express language of the weights and measures act does not exempt any municipal utilities from inspection by the Department of Agriculture.

Wyoming Statute § 40-10-122 gives the Director of the Department the ability to grant exemptions from the provisions of the weights and measures act when appropriate for the maintenance of good commercial practices within the State. Faced with having to inspect every municipal residential water meter in the State, the Department requests permission to promulgate emergency rules to address the gap in the weights and measures exemption language. The Department does not have the staffing, or necessary equipment, to inspect residential water meters. Nor does the Department believe it was ever the intent of the Legislature to require testing of municipal residential water meters through the weights and measures act. To delay closing the language gap would leave the Department with an affirmative duty to inspect water meters for municipal utilities statewide. The Department proposes to amend its Chapter 18 Weights & Measures, Metrology Laboratory and Registered Service Technicians rules and regulations by excluding all utilities identified in Wyoming Statute § 37-1-101, regardless of whether a utility is regulated by, or exempt from regulation by, the Wyoming Public Service Commission. At the same time, the Department intends to start the regular rulemaking process to permanently exempt all public utilities, as well as clean up the formatting and wording in Chapter 18.

The Agency Contact for these emergency rules is Hank Uhden, hank.uhden@wyo.gov 307-777-6574.

Sincerely,

Doug Miyamoto, Director

Equal Opportunity in Employment and Services

BOARD MEMBERS

Jana Ginter, *District 1* • James Rogers, *District 2* • Shaun Sims, *District 3* • Amanda Hulet, *District 4* • Mike Riley, *District 5*
Bryan Brost, *District 6* • Kevin Schieffer, *District 7*

YOUTH BOARD MEMBERS

Kendall Roberts, Southeast • Richard Schlenker, Northwest • John Hansen, Southwest • Cameron Smith, Northeast

EMERGENCY RULES
Chapter 18

**WEIGHTS & MEASURES, METROLOGY LABORATORY AND REGISTERED
SERVICE TECHNICIANS**

**Emergency Rules are in effect no longer than 120 days after filing with the Registrar
of Rules.**

Section 1. Authority. Pursuant to the authority provided by WYO. STAT. ANN. §§ 40-10-117 through 40-10-136, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions.

- (a) “The act” means Wyoming Statutes §§ 40-10-117 through 40-10-136.
- (b) "Establishment" means a place of business at a single physical location.
- (c) “Mobile establishment” means a transportable establishment which does not remain in a single physical location.
- (d) “NIST” means the National Institute of Standards and Technology.
- (e) “Premise and inspection location” means the physical location of an establishment or device that is unique by address and may be different than the address of record for management.
- (f) “Point-of-sale system” means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail.
- (g) “Scale Approach” means an area adjacent to the load-receiving element on either end of the scale which provides access to the scale.
- (h) “Special event” means a farmer’s market; a local community event; a fair, exposition, or trade show; or other venues open to the public for specified limited periods of time.

Section 3. Technical requirements for weighing and measuring devices, uniform regulation for national type evaluation, and checking the net contents of packaged goods.

- (a) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the

2014 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 44, "Specification, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," are adopted and shall apply to weighing and measuring devices in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(i) The following sections of Handbook 44 are not incorporated by reference:

(A) Section 3.36 Water Meters.

(b) The Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in the 2014 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," is adopted and shall apply to type evaluation in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(c) Recognized weighing, measuring, inspection, and sampling procedures, adopted by National Conference on Weights and Measures and published in the Fourth Edition 2014 of the United States Department of Commerce National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," are adopted and shall apply to package check weighing in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(d) The Department shall review the version of the above handbooks annually printed by the United States Department of Commerce National Institute of Standards and Technology and determine if this section of the rules should be amended to adopt the current version.

Section 4. Exemptions. The following are deemed appropriate to the maintenance of good commercial practices within Wyoming and exempt from the provisions of the act and these regulations.

(a) Ticket printers on vehicle tank meters. Reference: National Institute of Standards Handbook - 44 Section 3.1 Vehicle Tank Meter (VTM) code (*Ticket Printer required*).

(i) This exemption applies to meters mounted on vehicle tanks such as those used for the measurement and delivery of petroleum products; agri-chemical liquids such as fertilizers, feeds, pesticides, and defoliants; and water delivered in bulk.

(ii) This exemption DOES NOT apply to the following:

(A) Devices used for dispensing Liquefied Petroleum Gases, Liquid Anhydrous Ammonia, or other liquids which do not remain in a liquid state at atmospheric pressures and temperatures.

(B) Devices used solely for dispensing a product if the amount dispensed does not affect cost to the customer.

(C) Vehicle tanks used as measures.

(D) Mass flow meters.

(b) All delivery systems are subject to WYO. STAT. ANN. § 40-10-128;

(c) The delivery ticket may be printed using a mechanical ticket printer on the meter, or may be handwritten in clear hand script if the system does not have a ticket printer.

(d) All recorded representations shall show the following minimum information:

(i) The total volume of the delivery;

(ii) The unit price;

(iii) The total computed price;

(iv) The product identity by name; and

(v) The name, address, and phone number of the distributor.

(e) The Department will address all complaints on a case by case basis, and apply appropriate sanctions which may include, but not be limited to, revoking the exemption and requiring the immediate installation of mechanical or electronic ticket printers.

(f) Scale Divisions. Livestock Scales shall have a minimum division no greater than (5) pounds

(g) Scale Approaches.

(i) All entry areas to livestock scales shall ensure ease of access to the scale approach

(ii) On a livestock scale, there shall be a straight approach as follows:

(A) any approach adjacent to the load receiving element shall be of a width at least the width of the load-receiving element.

(B) Any approach adjacent to the load-receiving element shall be constructed of concrete or similar durable material and shall be designed to ensure any movement of the proper amount of test equipment onto and off the load-receiving element.

(h) All utilities identified in W.S. § 37-1-101, regardless of whether a utility is regulated by, or exempt from regulation by, the Wyoming Public Service Commission. Including, but not limited to, all public and municipal utilities defined in W.S. § 37-1-101.

Section 5. Inspection and testing of weights and measures used commercially.

(a) Weighing and measuring devices shall be inspected and tested according to a risk based schedule determined by the Director.

(i) Exception. The Department shall exercise no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

(A) For a weighing device to be exempt from this section, parties must agree in writing to the use of the weighing device. Appendix A to these rules shows an example of a written agreement. Copies of the signed and dated written agreements shall be retained by the seller for a minimum of 2 years.

(B) No exception is granted to any device for transactions which are deemed to be in commerce in accordance with the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

(b) Standards shall be inspected and tested as follows:

(i) Standards in possession and use by agencies of the state shall be inspected and tested annually.

(ii) Registered service technicians shall have their standards inspected and tested biennially by the Department, and will receive certification upon payment of the laboratory fees established in these regulations.

(iii) All standards that are new, recently purchased, or have been damaged must not be used prior to inspection, testing, and approval by the Department.

(iv) Exceptions.

(A) Standards in possession and use by service technicians and that have been inspected and tested biennially by another recognized state laboratory or an NIST accredited private laboratory are acceptable for use in Wyoming and exempt from this section.

(B) Standards which are self-contained, such as coal mine hopper weights, shall be inspected and tested by the Department at a minimum of once every five (5) years.

Section 6. Registered Service Technicians.

(a) Licensure of Weighing & Measuring Device Service Technicians. For the benefit of and as a convenience to the users, manufactures and distributors of weighing and measuring devices in the State of Wyoming, and those persons installing, servicing and repairing such instruments, the Department will accept applications for licensure of persons qualified to install, service and repair weighing and measuring devices.

(b) Certification of Registered Service Persons / Technicians. Certification will be valid for a term of 3 years. If the registered service persons license is allowed to expire, suspended or otherwise allowed to lapse within this 3 year period certification will be invalidated.

(i) Certification shall be based on the following:

(A) Applicants shall pass both a general written exam and a specialized exam in each area in which they will be doing service work;

(B) Applicants shall provide evidence that they have received qualified training and appropriate experience;

(C) Applicants shall provide evidence that they have the equipment required to repair and place devices into service.

(ii) Applicants shall successfully pass the general examination and the exam for each area in which they will be conducting service work with a 70% or better score.

(A) Failure to receive a passing score on any examination shall require that the applicant be re-examined only in categories which he failed. Re-examination shall be completed within ninety (90) days of the receipt of notification of the examination results.

(B) Any applicant who fails to obtain a passing score on two (2) successive examination attempts is required to attend a training program for new service technicians approved by the Director prior to taking any examination a third time.

(iii) The Department shall allow registered service technicians to become re-certified by completion of any of the following during the valid term of their certification:

(A) Attending the WDA re-certification short course;

(B) Re-examination in all applicable categories;

(C) Attendance at any National Institute of Standards and Technology, company, or training, meeting the Departments approval, that provides a minimum of six (6) hours of classroom instruction, seminar attendance, professional study; or

(D) Completion and documentation of any relevant online coursework meeting the Department's approval.

(c) Upon meeting certification requirements, applicants shall submit an application for licensing and a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable and deposited into the state general fund. Applicants who have been found qualified for certification as a registered service person / technician shall be issued a license in the appropriate categories or sub categories, provided that all other requirements for certification have been fully complied with.

(i) Fees:

(A) The fee for Registered Service Person / Technician License is \$25.00.

(B) Examination fees are \$10.00 per exam attempted.

(C) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(d) Registered Service Technician licenses expire March 31 of each year and may be renewed on an annual basis. Any license not renewed by March 31 is null and void and the former holder shall meet all requirements required to obtain an original license.

(e) Any registered serviceperson / technician who has had his license suspended shall, prior to re-instatement, be required to take all applicable examinations

and achieved a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter.

(f) The Department shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any registered service technician license.

(g) The testing equipment used by a registered service technician shall be submitted to the Department for approval upon its request.

(h) A holder of a certificate of registration has authority as provided by Wyo. Stat. Ann. § 40-10-122.

(i) Registered service technicians, shall use a standard Placing in Service Report approved by the Department. The registered service technician shall execute the Placing in Service Report for all devices they repair or adjust if it affects the accuracy of the device and for all devices which are newly installed (including new and used devices). The original Placing in Service Report shall be submitted to the Department within 24 hours of placing the device in service. Copies shall be left with the user of the device and the registered service technician. A device placed in service by a registered service technician shall meet all specifications, tolerances and technical requirements specified in WYO. STAT. ANN. § 40-10-120.

Section 7. Testing and Inspection Fees. Fees for testing and inspection shall be reviewed and set by the board of Agriculture. Fees will become effective upon approval by the board.

Section 8. Laboratory Fees. Laboratory fees shall be reviewed and set by the Board of Agriculture. Fees will become effective upon approval by the board and may be set at different levels for in-state and out-of-state customers.

Section 9. Establishment License Fees. Every person who owns or is responsible for a weight, measure, weighing or measuring device shall obtain an annual license for each establishment on or before April 1 from the Department and pay fees as provided in this subsection. The fees collected by the Department under this section shall be deposited in the general fund.

(a) Twenty-five dollars (\$25.00) for establishments with no more than five (5) devices;

(b) Fifty dollars (\$50.00) for establishments with more than five (5) and fewer than eleven (11) devices;

(c) Seventy-five dollars (\$75.00) for establishments with eleven (11) or more devices.

(d) For special events, twenty-five dollars (\$25.00) per individual vendor shall be charged annually. A special events license is valid for the duration of the event, whether a day, week or month. The weight, measure, or device used at special events must meet the requirements in Wyoming Statutes. In lieu of individual vendor licenses, a single event management may purchase an establishment license to cover all vendors. The event management is responsible for the weight, measure, or devices used under their license which must meet the requirements in Wyoming Statutes.

(e) Exemptions.

(i) State of Wyoming agencies are exempt from the licensing fee.

(ii) Pharmacy scales inspected and tested by the Wyoming State Board of Pharmacy are exempt from the licensing fee.

(iii) A Point-of-Sale system which is entirely independent from any weighing or measuring device is exempt from the licensing fee.

Section 10. Repeal Chapters. The Department of Agriculture's rules, Chapter 30 – Rules and Regulations Wyoming Department of Agriculture User Requirements for Weights and Measures Devices, are hereby repealed.

APPENDIX A

Example Written Agreement between parties

EXAMPLE WRITTEN AGREEMENT BETWEEN PARTIES

WYO. STAT. § 40-10-121(c) Except as otherwise required by law, rule, regulation or third party agreement, the Department shall have no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

The parties signed hereto, agree that the weighing device used to determine the weight of _____ on this date _____ has not been certified by the State of Wyoming, Department of Agriculture, or duly placed in service by a Registered Service Technician; AND the use of the weighing device by the parties is not regulated by the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

Seller:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Buyer:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Seller Signature

Buyer Signature

Date

Date

EMERGENCY RULES
Chapter 18

**WEIGHTS & MEASURES, METROLOGY LABORATORY AND REGISTERED
SERVICE TECHNICIANS**

**Emergency Rules are in effect no longer than 120 days after filing with the Registrar
of Rules.**

Section 1. Authority. Pursuant to the authority provided by WYO. STAT. ANN. §§ 40-10-117 through 40-10-136, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions.

- (a) “The act” means Wyoming Statutes §§ 40-10-117 through 40-10-136.
- (b) "Establishment" means a place of business at a single physical location.
- (c) “Mobile establishment” means a transportable establishment which does not remain in a single physical location.
- (d) “NIST” means the National Institute of Standards and Technology.
- (e) “Premise and inspection location” means the physical location of an establishment or device that is unique by address and may be different than the address of record for management.
- (f) “Point-of-sale system” means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail.
- (g) “Scale Approach” means an area adjacent to the load-receiving element on either end of the scale which provides access to the scale.
- (h) “Special event” means a farmer’s market; a local community event; a fair, exposition, or trade show; or other venues open to the public for specified limited periods of time.

Section 3. Technical requirements for weighing and measuring devices, uniform regulation for national type evaluation, and checking the net contents of packaged goods.

- (a) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the

2014 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 44, "Specification, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," are adopted and shall apply to weighing and measuring devices in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(i) The following sections of Handbook 44 are not incorporated by reference:

(A) Section 3.36 Water Meters.

(b) The Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in the 2014 Edition of the United States Department of Commerce National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," is adopted and shall apply to type evaluation in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(c) Recognized weighing, measuring, inspection, and sampling procedures, adopted by National Conference on Weights and Measures and published in the Fourth Edition 2014 of the United States Department of Commerce National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," are adopted and shall apply to package check weighing in Wyoming. These rules do not include any later amendments or editions. The handbook is available for public inspection and may be purchased at cost from the Wyoming Department of Agriculture and is readily available to the public and may be downloaded without cost from <http://www.nist.gov>.

(d) The Department shall review the version of the above handbooks annually printed by the United States Department of Commerce National Institute of Standards and Technology and determine if this section of the rules should be amended to adopt the current version.

Section 4. Exemptions. The following are deemed appropriate to the maintenance of good commercial practices within Wyoming and exempt from the provisions of the act and these regulations.

(a) Ticket printers on vehicle tank meters. Reference: National Institute of Standards Handbook - 44 Section 3.1 Vehicle Tank Meter (VTM) code (*Ticket Printer required*).

(i) This exemption applies to meters mounted on vehicle tanks such as those used for the measurement and delivery of petroleum products; agri-chemical liquids such as fertilizers, feeds, pesticides, and defoliant; and water delivered in bulk.

(ii) This exemption DOES NOT apply to the following:

(A) Devices used for dispensing Liquefied Petroleum Gases, Liquid Anhydrous Ammonia, or other liquids which do not remain in a liquid state at atmospheric pressures and temperatures.

(B) Devices used solely for dispensing a product if the amount dispensed does not affect cost to the customer.

(C) Vehicle tanks used as measures.

(D) Mass flow meters.

(b) All delivery systems are subject to WYO. STAT. ANN. § 40-10-128;

(c) The delivery ticket may be printed using a mechanical ticket printer on the meter, or may be handwritten in clear hand script if the system does not have a ticket printer.

(d) All recorded representations shall show the following minimum information:

(i) The total volume of the delivery;

(ii) The unit price;

(iii) The total computed price;

(iv) The product identity by name; and

(v) The name, address, and phone number of the distributor.

(e) The Department will address all complaints on a case by case basis, and apply appropriate sanctions which may include, but not be limited to, revoking the exemption and requiring the immediate installation of mechanical or electronic ticket printers.

(f) Scale Divisions. Livestock Scales shall have a minimum division no greater than (5) pounds

(g) Scale Approaches.

(i) All entry areas to livestock scales shall ensure ease of access to the scale approach

(ii) On a livestock scale, there shall be a straight approach as follows:

(A) any approach adjacent to the load receiving element shall be of a width at least the width of the load-receiving element.

(B) Any approach adjacent to the load-receiving element shall be constructed of concrete or similar durable material and shall be designed to ensure any movement of the proper amount of test equipment onto and off the load-receiving element.

(h) All utilities identified in W.S. § 37-1-101, regardless of whether a utility is regulated by, or exempt from regulation by, the Wyoming Public Service Commission. Including, but not limited to, all public and municipal utilities defined in W.S. § 37-1-101.

Section 5. Inspection and testing of weights and measures used commercially.

(a) Weighing and measuring devices shall be inspected and tested according to a risk based schedule determined by the Director.

(i) Exception. The Department shall exercise no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

(A) For a weighing device to be exempt from this section, parties must agree in writing to the use of the weighing device. Appendix A to these rules shows an example of a written agreement. Copies of the signed and dated written agreements shall be retained by the seller for a minimum of 2 years.

(B) No exception is granted to any device for transactions which are deemed to be in commerce in accordance with the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

(b) Standards shall be inspected and tested as follows:

(i) Standards in possession and use by agencies of the state shall be inspected and tested annually.

(ii) Registered service technicians shall have their standards inspected and tested biennially by the Department, and will receive certification upon payment of the laboratory fees established in these regulations.

(iii) All standards that are new, recently purchased, or have been damaged must not be used prior to inspection, testing, and approval by the Department.

(iv) Exceptions.

(A) Standards in possession and use by service technicians and that have been inspected and tested biennially by another recognized state laboratory or an NIST accredited private laboratory are acceptable for use in Wyoming and exempt from this section.

(B) Standards which are self-contained, such as coal mine hopper weights, shall be inspected and tested by the Department at a minimum of once every five (5) years.

Section 6. Registered Service Technicians.

(a) Licensure of Weighing & Measuring Device Service Technicians. For the benefit of and as a convenience to the users, manufactures and distributors of weighing and measuring devices in the State of Wyoming, and those persons installing, servicing and repairing such instruments, the Department will accept applications for licensure of persons qualified to install, service and repair weighing and measuring devices.

(b) Certification of Registered Service Persons / Technicians. Certification will be valid for a term of 3 years. If the registered service persons license is allowed to expire, suspended or otherwise allowed to lapse within this 3 year period certification will be invalidated.

(i) Certification shall be based on the following:

(A) Applicants shall pass both a general written exam and a specialized exam in each area in which they will be doing service work;

(B) Applicants shall provide evidence that they have received qualified training and appropriate experience;

(C) Applicants shall provide evidence that they have the equipment required to repair and place devices into service.

(ii) Applicants shall successfully pass the general examination and the exam for each area in which they will be conducting service work with a 70% or better score.

(A) Failure to receive a passing score on any examination shall require that the applicant be re-examined only in categories which he failed. Re-examination shall be completed within ninety (90) days of the receipt of notification of the examination results.

(B) Any applicant who fails to obtain a passing score on two (2) successive examination attempts is required to attend a training program for new service technicians approved by the Director prior to taking any examination a third time.

(iii) The Department shall allow registered service technicians to become re-certified by completion of any of the following during the valid term of their certification:

(A) Attending the WDA re-certification short course;

(B) Re-examination in all applicable categories;

(C) Attendance at any National Institute of Standards and Technology, company, or training, meeting the Departments approval, that provides a minimum of six (6) hours of classroom instruction, seminar attendance, professional study; or

(D) Completion and documentation of any relevant online coursework meeting the Department's approval.

(c) Upon meeting certification requirements, applicants shall submit an application for licensing and a fee payable to the Wyoming Department of Agriculture. All fees submitted shall be non-refundable and deposited into the state general fund. Applicants who have been found qualified for certification as a registered service person / technician shall be issued a license in the appropriate categories or sub categories, provided that all other requirements for certification have been fully complied with.

(i) Fees:

(A) The fee for Registered Service Person / Technician License is \$25.00.

(B) Examination fees are \$10.00 per exam attempted.

(C) Employees of governmental entities are exempted from paying the fees, when the license is used in the performance of their official duties.

(d) Registered Service Technician licenses expire March 31 of each year and may be renewed on an annual basis. Any license not renewed by March 31 is null and void and the former holder shall meet all requirements required to obtain an original license.

(e) Any registered serviceperson / technician who has had his license suspended shall, prior to re-instatement, be required to take all applicable examinations

and achieved a passing grade before operations may be resumed, and shall be considered on probation for a period of one (1) year thereafter.

(f) The Department shall in all cases adhere to the Wyoming Administrative Procedures Act when revoking, canceling or suspending any registered service technician license.

(g) The testing equipment used by a registered service technician shall be submitted to the Department for approval upon its request.

(h) A holder of a certificate of registration has authority as provided by Wyo. Stat. Ann. § 40-10-122.

(i) Registered service technicians, shall use a standard Placing in Service Report approved by the Department. The registered service technician shall execute the Placing in Service Report for all devices they repair or adjust if it affects the accuracy of the device and for all devices which are newly installed (including new and used devices). The original Placing in Service Report shall be submitted to the Department within 24 hours of placing the device in service. Copies shall be left with the user of the device and the registered service technician. A device placed in service by a registered service technician shall meet all specifications, tolerances and technical requirements specified in WYO. STAT. ANN. § 40-10-120.

Section 7. Testing and Inspection Fees. Fees for testing and inspection shall be reviewed and set by the board of Agriculture. Fees will become effective upon approval by the board.

Section 8. Laboratory Fees. Laboratory fees shall be reviewed and set by the Board of Agriculture. Fees will become effective upon approval by the board and may be set at different levels for in-state and out-of-state customers.

Section 9. Establishment License Fees. Every person who owns or is responsible for a weight, measure, weighing or measuring device shall obtain an annual license for each establishment on or before April 1 from the Department and pay fees as provided in this subsection. The fees collected by the Department under this section shall be deposited in the general fund.

(a) Twenty-five dollars (\$25.00) for establishments with no more than five (5) devices;

(b) Fifty dollars (\$50.00) for establishments with more than five (5) and fewer than eleven (11) devices;

(c) Seventy-five dollars (\$75.00) for establishments with eleven (11) or more devices.

(d) For special events, twenty-five dollars (\$25.00) per individual vendor shall be charged annually. A special events license is valid for the duration of the event, whether a day, week or month. The weight, measure, or device used at special events must meet the requirements in Wyoming Statutes. In lieu of individual vendor licenses, a single event management may purchase an establishment license to cover all vendors. The event management is responsible for the weight, measure, or devices used under their license which must meet the requirements in Wyoming Statutes.

(e) Exemptions.

(i) State of Wyoming agencies are exempt from the licensing fee.

(ii) Pharmacy scales inspected and tested by the Wyoming State Board of Pharmacy are exempt from the licensing fee.

(iii) A Point-of-Sale system which is entirely independent from any weighing or measuring device is exempt from the licensing fee.

Section 10. Repeal Chapters. The Department of Agriculture's rules, Chapter 30 – Rules and Regulations Wyoming Department of Agriculture User Requirements for Weights and Measures Devices, are hereby repealed.

APPENDIX A

Example Written Agreement between parties

EXAMPLE WRITTEN AGREEMENT BETWEEN PARTIES

WYO. STAT. § 40-10-121(c) Except as otherwise required by law, rule, regulation or third party agreement, the Department shall have no authority over weights and measures used pursuant to a written agreement between the parties using the weighing device.

The parties signed hereto, agree that the weighing device used to determine the weight of _____ on this date _____ has not been certified by the State of Wyoming, Department of Agriculture, or duly placed in service by a Registered Service Technician; AND the use of the weighing device by the parties is not regulated by the United States Department of Agriculture, Packers and Stockyards Act, 1921.” (7 U.S.C. 181) and the Regulations Under the Packers and Stockyards Act (9 CFR PART 201).

Seller:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Buyer:

Ranch or Business Name

Address

City, State, Zip

Phone, E-mail

Seller Signature

Buyer Signature

Date

Date