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## WEIGHTS AND MEASURES PROGRAM

This memorandum outlines the role of states' weights and measures programs, the regulation of weights and measures in Kansas, and the programs in other states. Weights and measures is one of the oldest government functions. It is specifically mentioned in the *Articles of Confederation* and the *U.S. Constitution*. The global and U.S. economies depend on uniform standards of mass, volume, and length. Thus, the Kansas Department of Agriculture's Weights and Measures program serves an important role in consumer protection and in facilitating trade.

Weights and Measures inspectors test all commercial weighing and measuring devices. They test scales used in grocery stores, grain elevators, livestock sale barns, pawn shops, and other locations. They test gas pumps and meters used to sell chemicals or to sell propane to home owners. They check packages containing edible and inedible products to ensure that the consumer receives the quantity stated on the label. They even verify that in-store scanners scan the correct price. Essentially, all consumer goods are subject, in one way or another, to the weights and measures law.

### Kansas' Weights and Measures Program

Kansas requires every commercial weighing or measuring device to be tested by a licensed service company or an authorized representative of a city or country with an established department of public inspection of weights and measures each year (excluding gas pumps, which are regulated specifically by Weights and Measures personnel). Service companies and technicians must be licensed by the Weights and Measures program. Licensed companies and technicians are authorized to repair, install, and certify commercial weighing and measuring devices. Kansas is believed to be the only state that allows service technicians to certify commercial weighing and measuring devices.

The Weights and Measures program provides oversight to these service companies and technicians. Computer-generated lists of scales recently tested by service companies are provided to inspectors of large and small scales. The inspectors retest the devices and compare results to ensure that the device was properly tested. Commercial scales found to be improperly tested by the service company are required to be retested. Compared to some other states, the number of devices tested by the Weights and Measures program is low, but Kansas' compliance rate for accuracy of these devices tends to be higher than other states.

Service companies in Kansas must pay an application fee of \$100 each year, but there are no additional registration requirements for weights and measures devices in the state. The 2016 Legislature passed HB 2490, authorizing the Secretary of Agriculture to increase the application fee beyond \$50 but not to exceed \$100 beginning July 1, 2017, not to exceed \$110 beginning July 1, 2019, not to exceed \$120 beginning July 1, 2021, and not to exceed \$130 beginning July 1, 2023 and thereafter. Every technician must attend a continuing education class and pass a test annually for each type of device for which they wish to be licensed.

Certain technicians with ten years or more of continuous licensure may be eligible to obtain a three-year license. Each scale and propane meter is required to be tested every 365 days by a licensed service company or by the state. Every gas pump and vehicle tank meter must be inspected by the state every 18 months.

There are no registration requirements for weights and measures devices in Kansas; below are Kansas' definitions of weights and measures devices.

- Small Scales – Any scale with a capacity of 200 pounds (lbs.) or less. Small scales can be mechanical or digital.
- Large Scales – Any scale with a capacity of more than 200 lbs.
- Scanners – The scanner reads the Uniform Price Code (UPC) on the package scanned and shows the price of the item scanned. Prices are entered into the scanner's computer by the store or by corporate headquarters.
- Bulk Fuel Meters – tank meters.
- Gas Pumps – retail gas pumps.
- Packages – Packages are classified into two categories: standard pack and random pack.
- Liquefied Petroleum Meters – tank meters and bottle gas meters.

### **Surrounding States Weights and Measures Programs**

Included are the weights and measures policies of seven surrounding states (Colorado, Iowa, Missouri, Nebraska, Oklahoma, Arkansas, and Texas). While each state has a unique regulatory composition, there are some similarities that can be generalized.

Four states (Colorado, Iowa, Nebraska, and Texas) require devices be state registered by the device owners before they can be used in the state. Five states (Colorado, Iowa, Missouri, Nebraska, and Oklahoma) rely on state Weights and Measures employees to inspect and certify devices for use. Arkansas and Texas inspections and certifications are completed by privately licensed inspection companies.

In all seven states, some form of annual inspection or certification of devices in use is required. State weights and measures departments range in size from 3 to 63 employees. A majority of these states allow private scale companies to provide service, repairs, and recalibration of registered devices, as needed. The devices are then inspected and sealed by state employees. Annual device registration and service technician fees vary greatly by state and by type of device.

## **Arkansas**

The Division of Weights and Measures within the Arkansas Bureau of Standards of the State Plant Board (Board) assures that commercial weights and measures are used as intended, properly installed, and accurate. Annually, the Board tests the standards for weights and measures used by cities and counties, and has authority to inspect commercial devices. The Board charges testing, inspection, and certification fees based on the type of device, ranging from \$7 to \$500. Scale inspections are completed by privately-licensed inspection companies, which inspect registered devices on an annual basis. Registered service agents also annually inspect, test, and, if necessary, re-calibrate fuel pumps and bulk meters. It is unknown how many devices are in operation in the state. There is no fee for registering devices in the state, nor are there any fees associated with registering as a licensed inspector in the state.

## **Colorado**

Inspectors for the Colorado Department of Agriculture (CDA) are responsible for the inspection and certification of certain commercial devices for accuracy. Those devices are scales, textile meters, cordage meters, and grain moisture meters. CDA does not contract out such duties to the private sector. Devices are registered when instrument owners procure a license from the CDA for the operation of the devices listed above if they are used commercially. The license is acquired on an annual basis. Registration fees are determined by device capacity. Scale companies also must renew their certificate annually. Certification fees vary from year to year, depending upon the total number of service licenses requested. Registered device service providers (scale companies) repair, service, and replace in-service commercial devices.

Commercial devices are inspected once a year and as needed by CDA employees. Colorado has 14 classifications of scales and over 25,000 large and small scales licensed each year. As of 2018, there were 183 moisture meters, 325 cordage meters, and 119 fabric meters registered in the state. CDA does not license or register scanning devices. Gas pumps and fuel meters are regulated by the Colorado Department of Labor and Employment, Division of Oil and Public Safety. The CDA Weights and Measures Division has 16 inspectors who regularly certify scales, check packages, and do scan tests. These inspectors certify that all devices are National Conference on Weights and Measures (NTEP) and National Institute of Standards and Technology (NIST) Handbook-compliant. The CDA Metrology Laboratory certifies weights used to inspect and certify commercially used scales.

## **Iowa**

Iowa Department of Agriculture (IDA) employees are responsible for conducting inspections of regulated devices. Scales in the state are inspected on a regular basis and when the IDA receives complaints that any false or incorrect weights or measures are being made. Fuel pump inspections are conducted annually. As of 2015, there were more than 40,000 fuel meters and 19,000 registered scales in the state. The IDA has 13 full-time employees in the Weights and Measures Department, 11 of which are field employees.

Service companies seal those devices in need of calibration, and state employees seal the devices after they are inspected. The state receives a phone call if a seal has been broken and registered service companies repair devices as needed. Owners register devices upon acquisition and pay an annual license fee. Registered services companies pay a \$5 annual fee per company and a \$5 annual fee per technician.

## **Missouri**

Employees of the Missouri State Weights and Measures Department are responsible for conducting all inspections of regulated devices. The Department has 63 employees, including 45 field inspectors. As of 2018, there were 15,383 gas pumps, 29,580 small capacity scales, and 6,149 medium and large capacity scales in Missouri. Scales, propane meters, refined fuel tank delivery vehicle meters, and marinas are inspected annually, while retail fuel, including high flow dispensers and terminal rack meters, are inspected every six months. Registered technicians can make calibrations, repair, and place devices into service. Any device placed in service, repaired, or re-calibrated must be followed by an official state inspector who will then replace the security seal with the state security seal.

There is no device registration requirement. The state has an inspection fee for scales. All petroleum inspections, including fuel quality, are funded by a petroleum inspection fee fund. As of April 1, 2017, the petroleum inspection fee is 3.5 cents per 50 gallon barrel. Scale and petroleum technicians must renew their Certificates of Registration every two years. There is no fee except for certification of standards. Petroleum standards and test weight calibration is \$100 per hour. The Director of Agriculture is authorized to fix the fee or hourly rate each year depending on the costs of administering the program.

## **Nebraska**

Nebraska relies primarily on state employees to complete annual inspections of the nearly 40,000 commercial weighing and measuring devices registered in the state. The Nebraska Department of Agriculture Weights and Measures Program consists of 20 employees, including 15 field inspectors and one metrologist. State employees and registered service companies are authorized to seal devices and ensure compliance with all categories of integrity. Only registered service companies repair and install devices. Devices are registered in the state by device type, make, model, and serial number. Upon registration by device owners and payment of inspection fees, the devices are assigned a number by the Weights and Measures Department. Technicians and service companies are required to register annually with the state; the cost is \$45 per registered service person.

## **Oklahoma**

State employees annually inspect all commercial scales, conduct price inspections, and package check inspections. Oklahoma does not have a device registration requirement. Fuel pumps are regulated by the Oklahoma Corporation Commission. In 2017, the state tested 11,882 scales total, including 9,767 small and platform scales, 15 livestock scales, 85 ranch scales, and 1,181 vehicle scales. The Oklahoma Weights and Measures Division includes one administrator and two field inspectors.

Scale companies have the initial authority to place a scale into service and attach seals. Once a scale is placed into service, state scale technicians and inspectors will follow-up to verify the scale is accurate. Scale owners can repair scales themselves or they can contact a licensed scale company for the repairs, when necessary. Company and technician licenses are renewed annually. The license is valid from July 1 to June 30 of each year. The company license fee is \$100 and the technician license fee is \$25.

## **Texas**

The Texas Department of Agriculture inspects and tests commercial weighing and measuring devices every four years. Scale inspections are completed by privately licensed inspection companies, which inspect registered devices on an annual basis. When these devices are in need of repair, maintenance is performed by private companies who also can place the devices back into service and provide security seals. Owners of these devices must register devices and renew registration every year. Registration and renewal fees range from \$13 to \$400. Additionally, an annual fee of \$100 is assessed to device owners, and registered technicians pay an annual licensing fee of \$150 per device class certification.