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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 20 2007

IN THE MATTER OF:

**PETITION OF STERICYCLE, INC.
FOR AN ADJUSTED STANDARD
FROM Ill. Admin. Code tit. 35 § 1422.111(B)(1);
§ 1450.105(A)-(B); AND § 1450.200(E)**

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STATE OF ILLINOIS
Pollution Control Board

AS 08-2
Adjusted Standard

NOTICE OF FILING

To: Dorothy Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE, that on December 20, 2007, we filed with the Office of the Clerk of the Illinois Pollution Control Board an original and ten copies of the attached First Amended Petition for Adjusted Standard of Stericycle, Inc., and Waste Management, Inc., a copy of which is hereby served upon you.

STERICYCLE, INC.

By: 

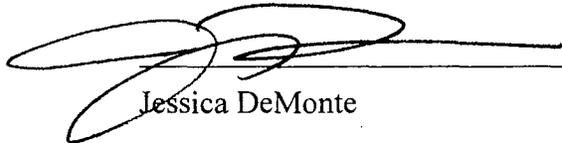
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CERTIFICATE OF SERVICE

I, the undersigned, on oath state that I have served on the date of December 20, 2007, the attached Petition for Adjusted Standard, via Federal Express mail, upon the following:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Peter Orlinsky
Assistant Counsel, Northern Region
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, Illinois 60016



Jessica DeMonte

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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FIRST AMENDED PETITION FOR ADJUSTED STANDARD

Stericycle, Inc., as operator, ("Stericycle") petitions the Illinois Pollution Control Board (the "Board") for an adjusted standard pursuant to Ill. Admin. Code 35 § 104.400 *et seq.*, and 415 Ill. Comp. Stat. 5/28.1. Stericycle requests the Board grant an adjusted standard for Ill. Admin. Code tit. 35 § 1422.111(b)(1); § 1450.105(a)-(b); and § 1450.200(e). This petition for adjusted standard is submitted pursuant to Section 35(a) of the Illinois Environmental Protection Act (the "Act") (415 ILCS 5/35(a)) and Part 104 of the Board's procedural rules (35 Ill. Admin. Code § 104.100 *et seq.*).

Stericycle requests an adjusted standard from Illinois' requirement that Stericycle manually weigh and record the weight of each load of Potentially Infectious Medical Waste ("PIMW") at its transfer station at 3801 S. Laramie Street, Cicero, Illinois 60804 (the "Facility"). Stericycle weighs all PIMW that is received at the Facility at Stericycle's facilities in Clinton, Illinois, or Sturtevant, Wisconsin. Stericycle requests an exemption from the requirement that each load of PIMW be weighed at the Facility with a device for which certification has been obtained under the Weights and Measures Act (Ill. Rev. Stat. 1991, ch. 147, pars. 101 *et seq.*) [225 Ill. Comp. Stat. 470]. Stericycle seeks to use weight measurement and recording data generated at the Stericycle PIMW treatment facilities in Clinton, Illinois, and Sturtevant, Wisconsin, for PIMW transporter fee calculation and other regulatory purposes in place of the current scale and weight recording system at the Facility. The PIMW weight data collected at the Clinton and Sturtevant facilities is more precise, is made contemporaneously with the receipt of the PIMW at each facility, is recorded and available at the Facility daily and is transmitted daily to Stericycle's corporate headquarters in Illinois.

Stericycle's proprietary BioTrack system gives it the ability to generate accurate "cradle to grave" tracking and monitoring of all PIMW collected, transported, treated and disposed at any Stericycle facility in the nation. The BioTrack system allows Stericycle to generate and maintain all information necessary to comply with the procedural PIMW tracking regulations that are the subject of this petition for adjusted standard. Accordingly, granting the requested adjusted standard will not result in any potential or actual harm to human health or the environment or any loss in PIMW transporter fee revenue to the State of Illinois.

Stericycle submits this First Amended Petition for Adjusted Standard in response to the Order of the Board dated October 18, 2007. Stericycle responds to each of the information

requests made by the Board. Attached hereto as Exhibit A is a document summarizing where the information responsive to each information request is set forth in this First Amended Petition.

I. PARTIES TO THE PROCEEDING

1. Stericycle was founded in 1989 and now operates 45 treatment and collection facilities throughout North America supported by 105 transfer stations. Stericycle is the largest and only full-service medical waste provider in the United States, and the company has a growing presence in Asia, Australia, the United Kingdom, Ireland and South America, serving more than 339,000 customers worldwide.
2. Stericycle has operated the Stickney PIMW transfer facility since November 4, 1997. In addition to operation of the Facility, Stericycle maintains its corporate headquarters in Bannockburn, Illinois. Waste Management has owned the Facility since the 1970s.

II. STANDARD FROM WHICH RELIEF IS SOUGHT - § 104.406(a)

3. Stericycle requests an adjusted standard for Ill. Admin. Code tit. 35 § 1422.111(b)(1), § 1450.105(a)-(b). These regulations require each load of PIMW arriving at the Facility to be weighed on an Illinois-certified scale. The regulations additionally require that Stericycle use a device certified by the Illinois Weights and Measures Act to weigh in pounds any load of PIMW received at the Facility.¹ The regulations also require that Stericycle maintain a Daily PIMW Report at the transporter's principal place of business in Illinois or its corporate headquarters, which is in Illinois.²
4. However, the regulations do not specify how the PIMW should be weighed (e.g., by individual container or collectively; in fact, the term "load" is not defined) or how the data should be recorded.
5. Stericycle has met with Anna Van Orden, Environmental Protection Specialist, Division of Land, and Beverly Albarracin, Permit Writer, from the Illinois Environmental Protection Agency (the "Agency") to discuss the issues that are the subject of this Petition. Prior to filing the Original Petition, Stericycle also consulted with Peter Orlinsky of the Agency, and by email dated August 17, 2007, Mr. Orlinsky stated it was the Agency's intention to recommend the adjusted standard be granted.

III. NATURE OF REGULATION OF GENERAL APPLICABILITY - § 104.406(b)

6. The primary purpose of the regulations for which the adjusted standard is sought is to ensure the recording of PIMW transported in the State of Illinois for waste tracking and fee generation purposes. Granting the adjusted standard will not reduce the accuracy or consistency of Stericycle's PIMW weight measurement and recording data or procedures. In fact granting the adjusted standard will ensure the consistency and precision of

¹ 35 Ill. Admin. Code § 1422.111(b)(1) (In order to reduce excessive document copying, documents attached to the Original Petition for Adjusted Standard are not reproduced here unless specifically required.); § 1450.105(a)-(b); § 1450.200(e); and Condition 15 of Permit No. 1997-264-DE/OP, Supplemental Permit No. 2005-182-SP.

² Ill. Admin. Code tit. 35 § 1450.103.

Stericycle's weight measurement and recording data. Moreover, granting the adjusted standard will not reduce the ability of Stericycle and the State of Illinois to track PIMW and determine accurate PIMW fees.

7. The regulations for which the adjusted standard is sought are administrative in nature and do not provide substantive protection of human health or the environment.
8. Stericycle does not believe the rules or regulations were promulgated in whole or in part, to comply with the requirements of the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response Compensation and Liability Act, or the State programs implementing the Resource Conservation and Recovery Act, Underground Injection Control or the National Pollution Discharge Elimination System.

IV. SPECIFIED LEVEL OF JUSTIFICATION - § 104.406(c)

9. The regulations of general applicability for which this adjusted standard is sought do not specify a level of justification for an adjusted standard.

V. FACILITY AND PROCESS DESCRIPTION - § 104.406(d)

10. The Facility is a 40-foot by 55-foot transfer facility within a 9.27 acre parcel in the Southwest Quarter of the Southeast Quarter of Section 33, Township 39 North, Range 13 East, of the Third Principal Meridian, Cook County, Illinois. The Facility is permitted by the Agency under Permit No. 1997-264-DE/OP and Supplemental Permit No. 2005-182-SP issued on September 21, 2005.
11. Stericycle collects PIMW in sealed containers from approximately 8,000 individual customer locations such as medical facilities, hospitals, clinics, veterinary hospitals, outpatient surgery centers, dialysis centers and wound clinics across northern Illinois. The sealed containers of PIMW are transported from the customer locations to the Facility, where they are transferred from one truck to another. The Petitioner employs approximately 23 people at the Facility. The Facility receives PIMW from customers in and around the Chicago metropolitan area.
12. The Facility transfers approximately 33,500 pounds of PIMW in sealed containers daily. The containers are not opened or compromised in any way during handling at the Facility. Indeed, operations at the Facility consist entirely of moving the containers from one truck to another.
13. Most of the PIMW containers transferred at the Facility are consolidated onto a larger truck and shipped to Stericycle's facility in Sturtevant, Wisconsin ("Sturtevant"), within all applicable regulatory timelines. Sturtevant is approximately 75 miles from the Illinois Facility and approximately 20 miles across the Illinois state line. The street address for Sturtevant is 14035 Leetsbir Road, Sturtevant, Wisconsin 53177. Sturtevant is located in the SW ¼ of the NE ¼ of Section 24, Township 3, Range 21 East in Racine County, Wisconsin. PIMW is treated at Sturtevant by Electro-Thermal Destruction in compliance with all applicable federal, state and local laws rules and regulations, such that it does not pose a threat to human health or the environment. After treatment at Sturtevant, the

waste is no longer considered to be PIMW. Stericycle maintains records sufficient to prove that all PIMW received at Sturtevant is treated and disposed of in compliance with all applicable rules and regulations.

14. PIMW containers not transferred to Sturtevant are transferred to Stericycle's facility in Clinton, Illinois ("Clinton"), where they are weighed in the same manner as in Sturtevant. Clinton is located at RR 4, Box 243L, Clinton, Illinois 61727. Clinton treats PIMW by incineration.
15. The Clinton and Sturtevant facilities also accept sealed containers of PIMW from facilities other than the Stickney transfer station. PIMW is transported directly to Clinton and Sturtevant from generators in their respective service areas as well as from other Stericycle transfer facilities. Typically, pathological and trace chemotherapy PIMW are transferred to Clinton for incineration, and all other PIMW is sent to Sturtevant.
16. All PIMW received at Sturtevant and Clinton can be tracked back to the generator, through any transfer station such as the Facility, through the use of Stericycle's BioTrack system, as described more fully below. This system allows each Stericycle facility to account separately for PIMW containers transferred from the Facility or any other Stericycle transfer station or generator.
17. Each Customer whose waste is transferred through the Facility is identified in Stericycle's state-of-the-art BioTrack system by route number and manifest. The BioTrack system contains real-time records of the PIMW picked up from each generator, including the name of the generator, the time, the number of containers, the type of container, the driver and the route number. A manifest also accompanies the containers of PIMW from each generator. Attached as Exhibit B is a sample report that can be generated at any time at the Stickney facility.³ Data is downloaded on a daily basis from the drivers PDT (a device similar to a UPS driver's scanner) and is accessible on any Stericycle computer with a connection to the BioTrack system. Once the system is updated, the information can be used to create a Daily Report.
18. The Facility does not transport PIMW to any other facilities other than Clinton and Sturtevant except in the event of an emergency or other unforeseen operational constraint that would prevent such transport. However, in the event PIMW from the Facility would need to be sent to another facility, all Stericycle facilities are connected to the BioTrack system and use the same procedures for electronically tracking and recording all required information. Therefore, any such equipment would also be trackable in the same manner as shipments to Sturtevant and Clinton.
19. Stericycle transports PIMW containers from the Facility to Sturtevant along the following route:

Day route:

South on Interstate 55 until junction with Interstate 294;

³ The names and addresses of the individual customers have been redacted to protect customer confidentiality.

North on Interstate 294 until junction with Interstate 94;
North on Interstate 94 until Exit 335 to Wisconsin Highway 11 (Durand Avenue);
Exit onto Durand Avenue and travel east to SE Frontage Road;
Left onto SE Frontage Road and travel north to Old Hwy 11;
Left onto Old Hwy 11 and travel west to S. Sylvania Avenue;
Right onto S. Sylvania Avenue and travel north to Leetsbir;
Left at Leetsbir and travel west to Sturtevant.

Night Route:

North on Interstate 55 until junction with Interstate 90/Interstate 94 N;
North on I-90N / I-94N until junction with Interstate 94;
North on Interstate 94 until Exit 335 to Wisconsin Highway 11 (Durand Avenue);
Exit onto Durand Avenue and travel east to SE Frontage Road;
Left onto SE Frontage Road and travel north to Old Hwy 11; Left onto Old Hwy 11 and
travel west to S. Sylvania Avenue;
Right onto S. Sylvania Avenue and travel north to Leetsbir;
Left at Leetsbir and travel west to Sturtevant.

20. Stericycle transports containers of PIMW from the Facility to Clinton along the following route:
- South on Interstate 55 South until junction with Interstate 74 E;
South on Interstate 74 E until Exit 135 to US-51 South;
South on US-51 until junction with Illinois Highway 10;
East on Highway 10 until junction with Magill Road;
Right on Magill Road and travel south to Clinton.
21. Stericycle currently weighs each truck load of PIMW received at the Facility on a truck scale owned by Waste Management and certified in Illinois.⁴ The Facility manually records the weight of each truck load of PIMW. However, due to daily operational differences in truck weight such as amount of fuel on board, weight of the driver, etc., this weight measurement system at the Facility can be imprecise when compared to weight data collected through the Bio Track system.
22. A daily weight log is manually kept at the Facility for compliance with Illinois regulations. However, this weight log is not used for internal billing purposes or for determining appropriate transporter fees to be paid to the State of Illinois.
23. While the daily weight log at the Facility is not used by Stericycle except for procedural compliance with the Illinois regulations, Stericycle maintains and will continue to maintain accurate records of the quantity and disposition of PIMW sufficient to comply with all applicable regulations through the use of the BioTrack system and the weight measurement and recording systems at the final treatment facilities (Clinton and

⁴ The most recent calibration report for the Waste Management scale at the Facility is attached as Exhibit G.

Sturtevant). This information is available at Stericycle's corporate headquarters and the Facility in electronic format.

24. At the time of collection from the PIMW generator, Stericycle records the number, type, and volume of the containers in cubic feet on the State of Illinois PIMW waste manifest.⁵ Pursuant to federal regulations, the manifest received at the Facility indicates the quantity of PIMW in terms of the number, type, and cubic feet of the containers. The net weight of PIMW for purposes of completing the manifest and determining the state fee is determined when the PIMW is processed at either the Sturtevant or Clinton treatment facility. When the PIMW arrives at a final treatment facility (Sturtevant or Clinton), a Stericycle employee confirms the container is properly recorded in the BioTrack system, identifies the container size and weight, calculates the fee, and completes the information on the manifest.
25. At the Facility, a paper log is manually maintained that indicates by route number the PIMW that was collected and transferred to a designated trailer to be sent to one of Stericycle's PIMW processing and treatment facility (Sturtevant or Clinton). Using the log and the data in the BioTrack system, Stericycle tracks each container from the generator, to the transport vehicle, to the vehicle onto which the PIMW is transferred and stored, to the treatment and disposal facility. After transfer, the PIMW is scanned and weighed again when it is unloaded at the final treatment facility (Clinton or Sturtevant). In this manner Stericycle can track the shipment and maintain a record of the weight from generator, to transfer station, to treatment facility, to final disposal.
26. The Clinton and Sturtevant facilities are integrated into Stericycle's corporate BioTrack system. As stated above, each container of PIMW arriving at Clinton and Sturtevant is scanned and all generation and transportation information, including data documenting that the PIMW was transferred from the Facility, is entered in BioTrack. Therefore, using BioTrack, at each facility where the PIMW is processed Stericycle can account for each container of PIMW transported from the Facility. The BioTrack system allows Stericycle to determine and account for all PIMW received from each generator or transfer station transporting PIMW to the treatment facility, when and how the PIMW is treated, and when and how the PIMW is finally disposed. The BioTrack system essentially gives Stericycle the ability to maintain "cradle to grave" tracking and monitoring of all PIMW collected. Furthermore, the information in BioTrack is sortable and searchable to allow Stericycle to obtain all the information needed to comply with the Illinois regulations at issue. This is essential for Stericycle's compliance with not just the rules that are the subject of this Petition for Adjusted Standard, but for all other regulatory and safety considerations as well.
27. Stericycle owns and operates automatic scale systems at Clinton and Sturtevant that weigh each individual container of PIMW received. Each container of PIMW is unloaded from the truck onto a conveyer belt. The customer label of each container is scanned for tracking purposes and the container is conveyed to a scale where it is automatically weighed. The Sturtevant scale is calibrated twice per year at a minimum, is

⁵ Attached hereto as Exhibit C.

certified by the State of Wisconsin Department of Agriculture, and has a certificate of conformance pursuant to National Institute of Standards and Technology Handbook 44.⁶ The Sturtevant scale system is maintained by Koehler Scale, Inc., 3475 Nemesis Avenue, Waukegan, Illinois 60087. Koehler Scale is certified by the State of Illinois Department of Agriculture, Bureau of Weights and Measures for registration of weighing devices.⁷ The Clinton scale also is regularly calibrated and is obviously subject to the jurisdiction of the State of Illinois.

28. Sturtevant operates under Wisconsin Department of Natural Resources Permit No. 3550.⁸ As required by the Wisconsin permit, each container of PIMW is weighed on the State of Wisconsin-certified scale. Sturtevant's weight data collection system, which weighs each container of PIMW individually, is more precise than the PIMW weight information generated at the Facility. The Sturtevant system meets all national, Wisconsin and Illinois standards. Moreover, the scale's computer data system automatically records the weight of each container, unlike the manual log records at the Facility, so it is less prone to human or mechanical error. Indeed, the weight information from the Sturtevant system is used by Stericycle and Illinois to bill customers and determine transporter fees payable to the State of Illinois.
29. Stericycle is required by regulations to prevent leaks and losses occurring during transportation from the generator to the Sturtevant and Clinton facilities. *See, e.g.*, 35 Ill Admin. Code § 1420.104(k) ("No person may cause or allow the discharge of PIMW from a vehicle."); *see also*, § 1421.121(a) ("PIMW...must be placed in a container...[which] must be rigid; leak resistant; impervious to moisture; of a strength to prevent tearing or bursting under normal conditions of use or handling; and sealed to prevent leakage during transport."); *see also*, § 1421.141(b) ("Packages of PIMW must be transported only in enclosed compartments of vehicles that are secured against public access when unattended..."); *see also*, § 1421.141(c) ("Vehicles...must be cleaned of visible PIMW contaminations after each use; and in good repair when transporting PIMW.").
30. Stericycle's BioTrack system as described above allows Stericycle to detect and report any losses of PIMW between the generator and final treatment. The BioTrack system records the number of containers collected at the point of generation and again at the time the container is weighed at the treatment facility. Any discrepancy between the number of containers can thereby be detected. Stericycle provides extensive training to its employees regarding the proper collection, transport and transfer requirements for PIMW. Stericycle employees visually inspect each container of PIMW at the time of collection at the generator, when it is transferred at the Stickney facility, and upon receipt at the final treatment facility. Repeated visual inspection of the containers ensures detection of any leaks or loss of PIMW.

⁶ The most recent scale calibration report indicating performance with NIST Handbook 44 is attached hereto as Exhibit D.

⁷ *See*, State of Illinois certification attached hereto as Exhibit E.

⁸ *See*, Modification to Plan of Operation approved by State of Wisconsin Department of Natural Resources on October 24, 2000.

31. PIMW can pose a serious threat to human health or the environment in the event infection material is discharged or allowed to contaminate the environment. It is for this reason that Stericycle complies with all laws, rules and regulations regarding the collection, transport, treatment and disposal of all PIMW, including all rules regarding the clean-up of any spilled or discharged material. The potential effects of an undetected loss include the threat of human exposure to pathogens or other infectious material; the contamination of soil or groundwater by infectious material; and litter. Stericycle takes the safety of human health and the environment very seriously, and any leaks or losses of PIMW are treated accordingly. Stericycle has in place extensive policies and controls to prevent leaks and to quickly and effectively respond when they occur.
32. To comply with the regulations that are at issue in this adjusted standard petition, Stericycle currently weighs each truckload of PIMW only as it arrives at the Facility. The truck scale at the Facility measures the weight of each load of PIMW in 200 pound increments (e.g., The load weighs 200 pounds.). However, Stericycle does not maintain a database of transport vehicles and their base weights, and such factors can impact the weight data along with the amount of fuel and the weight of the driver.
33. For all other regulatory purposes, Stericycle determines the weight of each load of PIMW by re-weighing each individual container of PIMW at either Sturtevant or Clinton, and then utilizing the above-described BioTrack tracking features to account for all PIMW transferred from the Facility. The Sturtevant scale measures the weight of each container of PIMW in increments of one-tenth of a pound (e.g., The container weighs 15.9 pounds.).
34. Because Stericycle uses the scales at Sturtevant to determine both amounts receivable from its customers and amounts payable to state regulatory authorities, Stericycle has an economic incentive to ensure the accuracy of the Sturtevant scales and the weights recorded there.
35. Furthermore, the Wisconsin Weights and Measures regulations, like the Illinois Weights and Measures regulations, similarly adopt NIST Handbook 44 for the technical requirements for commercial weighing and measuring devices. *See*, Wis. Admin. Code ATCP § 9202, *compare*, 8 Ill. Admin. Code § 600.330.⁹ *See also*, Wis. Stats. § 98.02 (“The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, published by the national institute of standards and technology, shall govern weighing and measuring equipment and transactions in this state.”). The Wisconsin regulations do not require the applicability of NIST Handbooks 105-1, 105-2, 105-3 or 105-4.
36. The Facility does not discharge into any waterway or onto any land. There are no air emissions from the Facility. The location of the nearest air monitoring station is not applicable. There are no permitted discharges, emissions or releases of PIMW at the Facility.

⁹ The Wisconsin and Illinois statutes are attached hereto as Exhibit F.

37. Pollution at the Facility is controlled by the proper operation and handling of sealed containers of PIMW. Petitioner Stericycle invests heavily in the proper training of all employees who will handle PIMW, and safety is a paramount consideration. There is no threat of pollution, discharge, emissions or release from operations at the Facility under ordinary circumstances.
38. Stericycle has not received any prior variance or adjusted standard for the Facility. To the best of the Stericycle's knowledge no variance or adjusted standard was issued to any of Stericycle's predecessors.

VI. REQUIREMENTS FOR COMPLIANCE - § 104.6(e)

39. The Facility is in compliance with the rules and regulations for which the Adjusted Standard is sought. The Facility achieves compliance by operating a truck scale owned by Waste Management at the Facility. The Facility has been deemed to be in compliance with Illinois rules by weighing each truck as it arrives at the Facility to determine the weight in pounds of each load of PIMW. However, Stericycle uses weights measured and recorded at the Sturtevant facility for paying fees to the State of Illinois, which is entirely permissible under the Illinois regulatory scheme.
40. As a result, Stericycle maintains duplicate weight recording systems. The weight of each truck "load" of PIMW is recorded manually in a log at the Facility, while the weight of each container is recorded electronically in Stericycle's computer system at the Sturtevant or Clinton facility. The weight information generated in Sturtevant (and Clinton) is transmitted daily to Stericycle's corporate headquarters in Illinois.
41. While Stericycle believes that the Facility's scale system is not as precise as the Sturtevant and Clinton weight measurement systems due to the larger increments it utilizes (200 pound increments vs. one-tenth of a pound increments), Stericycle is currently in compliance with the Illinois regulations of general applicability, which require it to "accurately [weigh] any load of PIMW in pounds."¹⁰ Additionally, Stericycle is required to weigh the PIMW "with a device for which certification has been obtained under the Weights and Measures Act." Stericycle accurately weighs each truck "load" on a device certified by the Illinois Weights and Measures Act. However, Stericycle believes weighing the "load" in this manner does not provide the most precise weight of PIMW due to the increments the scale uses and the variable factors that can influence the weight data. Therefore, Stericycle *more* precisely weighs the PIMW by re-weighing each individual container of PIMW and thus each "load" after transfer from the Facility to Sturtevant or Clinton. In this way, Stericycle complies with both the letter and the spirit of the regulations.
42. While the scale at the Facility is not precise enough for determining fees and confirming weights identified on PIMW manifest received, the scale meets the requirements of Ill. Admin. Code § 1450.105(b). Stericycle also complies with Ill. Admin. Code §

¹⁰ 35 Ill. Admin. § 1450.105(a).

1450.105(a) by accurately the PIMW containers at the final treatment facility. Accordingly, Stericycle's billing needs do not necessitate at scale at the Facility that can weigh individual containers.

43. Moreover, the weight of the PIMW is measured and recorded at both Clinton and Sturtevant, just as it would be if the PIMW was transported directly from the generator to the treatment facility. Therefore, granting the Adjusted Standard will not make it any more or less likely that there will be a leak or loss of PIMW during transportation, nor will it make it any more or less likely that such a leak or loss will be promptly detected and remediated in compliance with all applicable laws, rules and regulations.
44. Theoretically, Stericycle could weigh each truck as it enters the Facility and re-weigh each truck after it off-loads as an alternative to address variable weights of drivers and fuels. This option is not only burdensome and time-consuming, but does not cure the problem necessitating this Adjusted Standard. Even if Stericycle weighed each truck loaded and unloaded, Stericycle would still be required to re-weigh each container of PIMW after transport to Sturtevant or Clinton, and Stericycle would continue to use the weight data from the treatment facilities for state fee generation and customer billing purposes. Moreover, while weighing the truck before and after off-loading might generate a marginally more precise weight for Illinois fee purposes (compared to the current Facility process), such a process would not allow Stericycle to generate weight information precise enough for customer billing purposes which requires each container to be weighed individually due to the increments (200 pound increments) measured by the Facility scale. Finally, the Facility system would still not under any circumstance generate information as precise as weighing each PIMW container individually at the treatment facility.
45. Additionally, it is not possible for Stericycle to install a weight measurement system at the Facility equivalent to the weight measurement system at Sturtevant. The footprint of the Facility is too small to allow the installation of such a system. Even if it were possible to construct such a system, it would be cost prohibitive. Installation would require construction of loading and unloading dock, and the installation of additional weight measurement and tracking equipment at a cost of approximately \$250,000. Operational costs of operating such a system could be approximately \$390,000 per year.
46. Furthermore, the cost and time to weigh each individual container of PIMW at the generator pick-up location would also be prohibitive. To accomplish this task, Stericycle would be required to either operate a scale certified by the Illinois Weights and Measures Act at each customer facility – approximately 8,000 scales – or on each transport vehicle. Additionally, Stericycle would incur significant operational costs for scale maintenance; for inefficiencies in weighing each container at the time of pick-up; for training each driver to operate and accurately operate the scale; and for other unanticipated costs. The cost to install a scale in each vehicle or at each customer location would be approximately \$3,000 per scale. Operational costs could well exceed \$390,000 per year.

VII. DESCRIPTION OF ADJUSTED STANDARD - § 104.6(f)

47. Stericycle seeks an adjusted standard from the weight measurement and recording requirements generally applicable to transporters of PIMW. Stericycle requests an exemption from the requirement that each load of PIMW be weighed with a device for which certification has been obtained under the Weights and Measures Act (Ill. Rev. Stat. 1991, ch. 147, pars. 101 *et seq.*) [225 Ill. Comp. Stat. 470].
48. To effectuate the requested relief, Stericycle requests that the Board adopt the following language as a Board Order:
- “a. At the Stericycle facility permitted by the Agency under Permit No. 1997-264-DE/OP and Supplemental Permit No. 2005-182-SP issued on September 21, 2005 (the “Stickney transfer station”), Stericycle shall weigh in pounds the amount of PIMW received, unless 1) PIMW was previously weighed by the transporter, or 2) the PIMW subsequently will be weighed at a facility designed to treat PIMW to eliminate its infectious potential.
 - b. The PIMW shall be weighed with a device for which a certificate of conformance has been obtained pursuant to National Institute of Standards and Technology Handbook 44. The PIMW may be weighed on a device outside the state of Illinois, provided the device conforms with the standards set forth in this section.
 - c. The Daily PIMW Report shall be maintained at the location where the PIMW is weighed and at the transporter’s corporate headquarters in Illinois.
 - d. The Daily PIMW report shall be made contemporaneously with the receipt of each load at a facility designed to treat PIMW to eliminate its infectious potential. If the Daily PIMW report is generated at a facility outside the State of Illinois, the Daily PIMW report shall be transmitted electronically to the Stickney transfer station and its corporate headquarters at the close of each business day.
 - e. The Daily PIMW report for the Stickney transfer station shall include all information required by Ill. Admin. Code tit. 35 § 1450.200(c).
 - f. It shall be a violation of the conditions of this Permit if a Daily PIMW report cannot be produced by Stericycle within 24 hours of a request for such information by the Illinois Environmental Protection Agency.
 - g. Stericycle shall apply separately for a permit amendment to Section 15 of Permit No. 1997-264-DE/OP and Supplemental Permit No. 2005-182-SP issued on September 21, 2005, to effectuate the above-described changes.
 - h. Immediately upon adoption of Adjusted Standard Case Number AS 2008-002, Stericycle may change the method for weighing and recording PIMW shipments as described herein. Stericycle is hereby granted interim authorization to operate

pursuant to AS 2008-02 pending approval of the permit amendment as described above.”¹¹

49. Stericycle will incur no additional costs to comply with the Adjusted Standard. Instead, Stericycle will save approximately \$42,000 per year by ceasing operation of the scale system at the Facility. These savings include the costs to operate, certify and maintain the scale and the additional costs of recordkeeping.
50. If the Board grants the Petition for Adjusted Standard, Stericycle will not continue weighing each truck as it arrives at the Facility, but will rely on weight information generated at Sturtevant or Clinton for complying with the Illinois regulations.
51. If the Petition for Adjusted Standard is granted, there will be no increased risk of harm to human health and the environment from undetected loss of PIMW between the generator and the Facility or between the Facility and either the Sturtevant or Clinton facilities.

VIII. IMPACT ON THE ENVIRONMENT - § 104.6(g)

52. There will be no environmental impact if the adjusted standard is granted.
53. Granting of the adjusted standard will not result in any emissions, discharges, or release of any constituent.
54. There will be no qualitative or quantitative impact on human health and the environment if the adjusted standard is granted.
55. If the adjusted standard is granted, Petitioner Stericycle will continue to operate its facilities in Illinois and Wisconsin in compliance with all applicable federal, state and local laws, rules and regulations so as to minimize the chance for release or discharge of any PIMW.

IX. JUSTIFICATION FOR ADJUSTED STANDARD - § 104.6(h)

56. It is within the authority of the Illinois Pollution Control Board to grant the requested relief. Pursuant to the Environmental Protection Act, the Board has the authority to conduct proceedings “upon other petitions for review of final determinations which are made pursuant to this Act or Board rule and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by this Act or any other statute or rule.”¹² Importantly, the regulation allowing the Board to grant an adjusted standard “shall not be construed so as to affect or limit the authority of the Board to adopt, amend or repeal regulations specific to individual persons, geographic areas or sites.”¹³

¹¹ If this interim authorization is not within the Board’s authority, Stericycle requests that the Board disregard Paragraph 47.h.

¹² 415 ILCS 5/5(d); *see also*, 2 Ill. Admin. Code § 2175.600(11).

¹³ 415 ILCS 5/28.1(h).

The rulemaking procedures of the IEPA set forth in Ill. Admin. Code § 1450 are final determinations made under the Act which involve a subject that the Board is authorized to regulate. The Act and the Illinois Administrative Code provide Board authority to grant an adjusted to standard to rules of "general applicability."¹⁴ Moreover, the Board is not restricted in its authority to adopt or amend regulations specific to individual sites.

Accordingly, the Board has the authority to grant the adjusted standard as requested.

If the Board finds that it is not within the Board's authority to grant the adjusted standard for all regulations set forth in this petition, Stericycle respectfully requests that the Board grant the adjusted standard as to those regulations that are within its power to grant, and deny this petition only with regard to the regulations that the Board deems outside its authority.

57. As stated in Section IV of this petition, the regulations of general applicability do not specify a level of justification for the adjusted standard. Section 28.1(c) of the Illinois Environmental Protection Act allows the Board to grant adjusted standards in the absence of a specified level of justification if the Board determines, based upon adequate proof by the petitioner that:
- a. factors relating to the petitioner are substantially different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;
 - b. the existence of those factors justifies an adjusted standard;
 - c. the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and
 - d. the adjusted standard is consistent with any applicable federal law.
58. The regulations of general applicability were adopted on December 3, 1992 pursuant to regulatory rulemaking R91-20.¹⁵ The rulemaking documents do not specifically address the adoption of the requirement that PIMW be weighed on a scale certified by the State of Illinois. However, Stericycle believes that the regulations were primarily concerned with ensuring the accurate and consistent weighing of PIMW on an independently-certified weight measurement system and the accurate recording of such data, which is important for waste tracking and fee determination purposes.
59. In the only reference to the rules of general applicability found in the rulemaking documents, the Board quoted the Agency as promulgating § 1422.111(b) because:

"These requirements are necessary to meet the intent of the Act to reduce the potential environmental and public health risks associated with PIMW, since the permitted storage operation is not normally the

¹⁴ Ill Admin. Code tit. 35 § 28.1.

¹⁵ The rulemaking was attached to the original petition, but is not reproduced here.

generator of the waste. The owner or operator of the storage operation does not possess the same knowledge of the waste as the generator and does not maintain the same control over what is placed in the packages as the original generator. In addition, safeguards are necessary because PIMW is stored for varying lengths of time and under varying conditions.”¹⁶

Section 1422.111(b) contains standards for PIMW storage operations required to have a permit. The rules in § 1422.111(b) prescribe general design and operating standards, most of which have nothing to do with weight measurement or recording.

60. Currently, Stericycle does everything necessary to comply with both the letter and the intent of the Illinois regulations. Accurate weight information is generated and recorded for all PIMW “loads” transferred at the Facility, and Stericycle is able to accurately and rapidly track all PIMW from the generator to final disposition. Stericycle accurately weighs the amount of PIMW received,¹⁷ and it maintains in Illinois all information required to be on the Daily PIMW report.¹⁸ It even uses an Illinois scale as required.¹⁹ The only thing Stericycle is requesting by this petition is that it be allowed to forego the requirement that it weigh and record each “load” of PIMW as it arrives at the Facility – a step that is entirely unnecessary given Stericycle’s otherwise rigorous and robust waste data tracking and recording system.
61. The factors relating to Stericycle are substantially different from the factors relied upon in adopting the regulations of general applicability. As discussed above, the regulations were concerned with ensuring the accurate and consistent weighing and recording of PIMW weight information. The requirement that the weight measurement device be certified under the Illinois Weights and Measures Act is to ensure that all weight measurement systems are accurate and can be certified by an independent third party – either a private scale certification company or state regulators. The rules did not contemplate a transporter being required to operate dual weight measurement systems simply because it was transporting PIMW a short distance across the state line. The rules of general applicability apply differently because:
 - a. The regulations require Stericycle to operate and maintain duplicative measurement and recordkeeping systems. The duplicative systems are not necessary to accomplish the goals of the regulations to ensure the accurate and timely measurement of PIMW weight information. Stericycle’s BioTrack system is able to track and record the PIMW from the generator to final disposal such that it maintains control of all necessary information about the PIMW at all times. Requiring PIMW be weighed at the Facility where the material is simply moved from one truck to another does not generate any new or more precise information. These duplicative systems require investment of time, effort, materials and

¹⁶ Proposed Rule, First Notice, Opinion and Order of the Board at 34. This document was attached to the Original Petition. For the sake of conservation, an additional copy is not attached hereto.

¹⁷ 35 Ill. Admin. § 1422.111(b) and § 1450.105(a).

¹⁸ § 1450.200(e).

¹⁹ § 1422.111(b) and § 1450.105(b).

manpower which place an unreasonable economic burden on Stericycle. Granting of the adjusted standard will allow Stericycle to reduce administrative costs without reducing the accuracy or completeness of the weight measurement and data recording system and without a detriment to human health or the environment;

- b. The weight measurement system currently used at the Facility has inherent flaws, as described above. The Clinton and Sturtevant facilities' weight measurement system are much more precise and less susceptible to human error. Accordingly, the weight measurement system at the Facility is not used for billing customers or determining transporter fees to be paid to the State of Illinois. The rules of general applicability apply differently because they require Stericycle to operate and maintain a system that is not essential for proper waste tracking and is not used for billing or state fee purposes.
- c. The requirement that all PIMW be measured at the Facility on a scale certified in accordance with the Illinois Weights and Measures Act does not protect human health or the environment, nor does it provide any additional assurance of accurate weight measurement or recordkeeping for the PIMW. The regulations were passed to ensure that PIMW was weighed on a scale that satisfied Illinois' standards for accuracy. The standard is the same in Wisconsin. The rules of general applicability apply differently because both Illinois and Wisconsin require scales to conform with the National Institute of Standards and Technology ("NIST") Handbook 44. The NIST Handbook 44 has been adopted by 40 states, including Illinois and Wisconsin. In those 40 states, the state regulations are automatically updated any time changes are made to Handbook 44 such that the rules remain consistent within all 40 states at all times.
- d. Sections 1450.105(a)-(b) were adopted to ensure the State of Illinois collected proper fees pursuant to the Illinois Medical Waste Transporter Fee System. The rules apply differently to Stericycle's Facility because the company does not use weight data collected at the Facility for fee payment purposes. Stericycle uses the more precise weight data from Sturtevant for both billing customers and making payments to the State of Illinois. Because of the dual use of the weight information, Stericycle has an economic and regulatory incentive to ensure the most precise and consistent collection of PIMW weight data is used and thus Stericycle relies on the weight measurement systems at the final treatment facilities (Clinton and Sturtevant).
- e. The rules of general applicability require a Daily PIMW Report to be kept at the Facility. As stated above, the Facility manually creates the Daily PIMW Report based on the use of the truck scale at the Facility, which can be influenced by variable factors, such as truck weight and fuel. However, the Sturtevant facility is able to electronically transfer its PIMW weight information to both the Facility and Stericycle's corporate headquarters in Illinois where the records can be reviewed by Illinois regulators. The rules of general applicability apply differently because Stericycle maintains weight information at Sturtevant in a

more precise and accessible manner than the manual log at the Facility. Additionally, Illinois regulators have access to and can view Stericycle's PIMW weight information without traveling outside the state of Illinois.

- f. Finally, in adopting the rules, it was apparently assumed that transfer stations would transfer PIMW to other facilities in Illinois or to facilities not owned or operated by the transporter or transfer station operator. Stericycle's interstate operations allow it to operate an efficient network of collection, transportation and treatment facilities across state lines. Stericycle's waste tracking system allows it to track each container from generation to disposition. This allows Stericycle to generate and maintain accurate and timely information regarding the quantity and disposition of each load of PIMW without weighing each container arriving at the Facility. The requirement that PIMW be weighed twice by different scales applies differently to Stericycle than it would for a wholly intrastate operation or to transporters, transfer stations and disposal facilities that operate independently.
- g. Presently, the Facility's scale meets the requirements for determining fees and confirming weights identified on PIMW manifests received. However, using the existing scale to weigh each container of PIMW with the accuracy required for fee generation and customer billing purposes is not practicable and due to the increments involved would not be as precise as the Sturtevant facility measurements.
- h. It is not believed possible for Stericycle to implement a weight measurement system at the Facility capable of precisely measuring each container of PIMW for billing and fee calculation purposes because of location constraints, but even if it could, it would require Stericycle to install costly and duplicative equipment at the Facility to what is already in place in Sturtevant. The capital cost to install such equipment is estimated to be approximately \$250,000. Moreover, it would be unnecessary because Stericycle weighs each container tracked to each customer at the point of final treatment and disposal in any event. Furthermore, such a scale at the Facility capable of weighing individual containers would not be required for Stericycle's billing needs since one is already in place at the Sturtevant facility.
- j. In addition, setting up such a system at the Facility would require Stericycle to weigh each individual container as each container is transferred from one transport vehicle to another. This would create an additional and unnecessary step into the transportation process, decreasing the efficiency of the operation and the safety of human health and the environment.
- k. Additionally, weighing each container will increase transfer time by creating a bottleneck at the transfer facility. Instead of each incoming trucks being unloaded directly to a transfer vehicle, each container would have to be weighed on the scale before being transferred. This could create unnecessary delays between collection of the PIMW from the generator and final treatment and disposal.

- l. In summary, the factors relating to Stericycle are substantially and significantly different from the factors relied upon by the Board and the Agency because Stericycle has in place a full set of systems and controls necessary to comply with all applicable rules and regulations – in spirit and in letter – yet is required to have on additional step that is unnecessarily burdensome. Stericycle’s robust safety and waste tracking systems are designed to surpass all other regulatory standards in Illinois and across the country, and granting the adjusted standard will allow significant cost savings to Stericycle with no threat to human health or the environment or decrease in accuracy of waste tracking or fee generation information.
62. The adjusted standard is justified because under rules of general applicability Stericycle is required to maintain a duplicative administrative system that provides no additional protection of human health or the environment; does not increase revenues to the State of Illinois; and instead creates the possibility of inaccuracies and inconsistencies.
63. If the Board grants the adjusted standard there will be no adverse effect on human health or the environment, nor will revenue to the State of Illinois be reduced. The environmental and health effects of operations at the Facility will be exactly the same if the adjusted standard is granted. The environmental and health effects will not be substantially or significantly more adverse than the effects considered by the Board in adopting the rule of general applicability.

X. CONSISTENCY WITH FEDERAL LAW - § 104.6(i)

64. The Board may grant the adjusted standard consistent with federal law including the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the National Primary Drinking Water Regulations, the Underground Injection Control Program, the Resource Conservation and Recovery Act, and all federal regulations adopted pursuant thereto. The Facility does not have any air emissions or water discharges, and granting the adjusted standard will not impact air emissions, water discharges or public drinking water. The Facility is not subject to regulation under the Underground Injection Control Program or RCRA.
65. The adjusted standard is consistent with federal law.

XI. WAIVER OF HEARING - § 104.6(j)

66. Stericycle has discussed this Proposed Adjusted Standard with the Illinois Environmental Protection Agency, which has indicated it intends to recommend the Adjusted Standard be granted barring unforeseen circumstances. Unless an objection is raised by the Agency or a hearing is requested by a member of the public or an interested party, Stericycle hereby waives hearing in this matter.

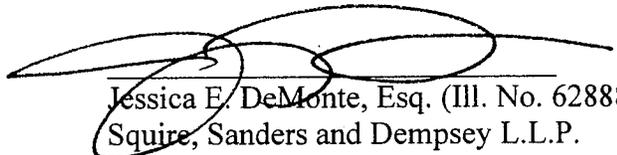
XII. SUPPORTING DOCUMENTS - § 104.6(k)

67. Supporting documents cited in this petition are attached hereto.

VII. CONCLUSION

Stericycle petitions the Illinois Pollution Control Board (the "Board") for a adjusted standard from Ill. Admin. Code tit. 35 § 1422.111(b)(1); § 1450.105(a)-(b); § 1450.200(e). Under the rules for which the adjusted standard is sought, Stericycle is required to maintain a duplicative administrative system that provides no additional protection of human health or the environment and does not increase revenues to the State of Illinois. This duplicative system creates the possibility of inconsistencies while the Wisconsin-certified scales, which are used for billing and fee-payment purposes, conform to the same standards as required by the State of Illinois and are at least as accurate as the system in place at the Facility (and Stericycle believes are, in fact, more precise). Accordingly, requiring strict compliance with the Illinois rules is an unreasonable and arbitrary burden for Stericycle, and thus Stericycle respectfully requests that the Board order this adjusted standard.

Respectfully submitted,



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EXHIBIT A

Stericycle responds to the information requests from the Illinois Pollution Control Board as follows:

- ID-1:** Stericycle addressed the information request in Paragraph 61 of the Petition.
- ID-2:** The Board has the authority to grant the Adjusted Standard as requested. Stericycle addressed the information request in Paragraph 56. In Paragraph 48.h. of the Petition, Stericycle requests that the Board allow interim authorization for Stericycle to begin operating pursuant to the Adjusted Standard while Stericycle separately pursues a permit modification. If this interim authorization is not within the Board's authority, Stericycle requests that the Board disregard Paragraph 41.h.
- ID-3(1):** The street address for Sturtevant is 14035 Leetsbir Road, Sturtevant, Wisconsin 53177. Sturtevant is located in the SW ¼ of the NE ¼ of Section 24, Township 3, Range 21 East in Racine County, Wisconsin.
Stericycle addressed the information request in Paragraph 13 of the Petition.
- ID-3(3):** Stericycle addressed the information request in Paragraphs 15 & 18 of the Petition.
- ID-3(4):** Stericycle addressed the information request in Paragraphs 29 & 30 of the Petition.
- ID-3(5):** Stericycle addressed the information request in Paragraph 24 of the Petition.
- ID-3(6):** A sample of the current manifest and instructions for completing the manifest are attached to the Petition as Exhibit C.
- ID-3(7):** Stericycle addressed the information request in Paragraph 33 of the Petition.
- ID-3(8):** A copy of the certification required by 35 Ill. Admin. Code § 1422.111(b)(1) is attached as Exhibit E.
- ID-4(1):** Stericycle complies with the regulation of general applicability. Stericycle accurately weighs each "load" on a device certified by the Illinois Weights and Measures Act, and then Stericycle *more* accurately weighs the PIMW by re-weighing each individual container of PIMW after transfer from Stickney. In this way, Stericycle complies with both the letter and the spirit of the regulations.
Stericycle addressed the information request more thoroughly in Paragraphs 39-46 of the Petition.
- ID-4(2):** Stericycle addressed the information request in Paragraph 42 of the Petition.
- ID-4(3):** Stericycle addressed the information request in Paragraph 32 of the Petition.
- ID-4(4):** Stericycle addressed the information request in Paragraph 44 of the Petition.
- ID-4(5):** Stericycle addressed the information request in Paragraph 45 of the Petition.
- ID-4(6):** Stericycle addressed the information request in Paragraph 46 of the Petition.

- ID-5(1):** Stericycle addressed the information request in Paragraph 49 of the Petition.
- ID-5(2):** Stericycle addressed the information request in Paragraph 50 of the Petition.
- ID-5(3):** If the Petition of Adjusted Standard is granted, Stericycle will transmit the daily PIMW report to its corporate headquarters in addition to transmitting it to Stickney. Stericycle addressed the information request in Paragraph 48.d. of the Petition.
- ID-5(4):** Stericycle addressed the information request in Paragraph 35 of the Petition.
- ID-5(5):** Stericycle addressed the information request in Paragraph 35 of the Petition.
- ID-6:** Stericycle addressed the information request in Paragraphs 29, 30, 31 & 43 of the Petition.
- ID-7(1):** A copy of the sample report with the names of customer's redacted for confidentiality purposes is attached as Exhibit B.
- ID-7(2):** The certification that the Wisconsin scales meets the requirements of NIST Handbook 44 is attached as Exhibit D.
- ID-7(3):** An updated and valid certification is attached as Exhibit E.

EXHIBIT B

Cust ID	Site ID	Name	Addr1	Addr2	City	ST	Zip	Manifest ID	Pickup Date/Time	Ctrs	Route Nbr	Route End Time
0045112	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60626	MDST005UBL	1/2/07 6:35 AM	21	200	1/2/07 4:46 PM
0011795	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60626	MDST005UB3	1/2/07 7:18 AM	6	200	1/2/07 4:46 PM
0045527	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60626	MDST005UC1	1/2/07 7:55 AM	1	200	1/2/07 4:46 PM
0045524	011	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60626	MDST005UC0	1/2/07 8:07 AM	1	200	1/2/07 4:46 PM
0016458	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60660	MDST005UBH	1/2/07 8:45 AM	2	200	1/2/07 4:46 PM
0045991	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60660	MDST005UB5	1/2/07 8:54 AM	1	200	1/2/07 4:46 PM
0011845	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UBC	1/2/07 8:59 AM	1	200	1/2/07 4:46 PM
2022235	515	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60660	MDST005UBR	1/2/07 9:17 AM	1	200	1/2/07 4:46 PM
0013597	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60660	MDST005UBD	1/2/07 10:14 AM	10	200	1/2/07 4:46 PM
0045524	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UC2	1/2/07 10:49 AM	1	200	1/2/07 4:46 PM
0015434	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UBG	1/2/07 11:06 AM	3	200	1/2/07 4:46 PM
0049121	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UFM	1/2/07 12:16 PM	3	200	1/2/07 4:46 PM
0015432	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UBF	1/2/07 12:35 PM	12	200	1/2/07 4:46 PM
2014576	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60614	MDST005UBX	1/2/07 12:57 PM	1	200	1/2/07 4:46 PM
2004914	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UCI	1/2/07 1:09 PM	2	200	1/2/07 4:46 PM
2025209	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60640	MDST005UHM	1/2/07 1:19 PM	1	200	1/2/07 4:46 PM
0049076	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60613	MDST005UBU	1/2/07 1:39 PM	1	200	1/2/07 4:46 PM
0046479	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60613	MDST005UBA	1/2/07 1:50 PM	4	200	1/2/07 4:46 PM
2029220	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60613	MDST005UAZ	1/2/07 2:27 PM	1	200	1/2/07 4:46 PM
2021438	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60613	MDST005UBM	1/2/07 2:38 PM	1	200	1/2/07 4:46 PM
0046357	001	Name Redacted	Add. Redacted	Add. Redacted	Chicago	IL	60613	MDST005UB1	1/2/07 2:55 PM	1	200	1/2/07 4:46 PM
0044991	001	Name Redacted	Add. Redacted	Add. Redacted	Skokie	IL	60018	MDYK003ZT1	1/3/07 7:17 AM	1	200	1/3/07 3:19 PM
0042884	001	Name Redacted	Add. Redacted	Add. Redacted	Skokie	IL	60077	MDST005UNV	1/3/07 7:31 AM	1	200	1/3/07 3:19 PM
0046452	001	Name Redacted	Add. Redacted	Add. Redacted	Skokie	IL	60076	MDST005UO3	1/3/07 7:40 AM	1	200	1/3/07 3:19 PM

EXHIBIT C



Illinois Environmental Protection Agency

This Agency is authorized to require this information under the Illinois Environmental Protection Act, Ill. Rev. Stat., 1989, ch. 111 1/2, pars. 1001 et. seq. ("Act") Section 4 and Public Act 87-752, amending the Act effective January 1, 1992. Disclosure of this information is required. Failure to do so may result in a civil penalty according to Section 42(a) of the Act and a criminal penalty according to Section 44(a) of the Act. This form has been approved by the Forms Management Center.

M2382001

Illinois Potentially Infectious Medical Waste Manifest

- 1. HAULER NAME AND ADDRESS:
- 2. PHONE (_____) _____ - _____
- 3. PIMW HAULING PERMIT _____
- 4. LICENSE PLATE _____ STATE _____

5. NAME (PRINT/TYPE) SIGNATURE DATE

- 6. NUMBER OF CONTAINERS _____ 7. TOTAL NET WEIGHT _____ (LBS) _____ (CU. FT.)
- 8. FEE DUE: LBS x \$.03 = _____ 9. Acknowledgement of Fee (Signature)

10. GENERATOR NAME AND ADDRESS:

- 11. PHONE (_____) _____ - _____
- 12. TYPE OF WASTE: INFECTIOUS SUBSTANCE, AFFECTING HUMANS 6.2 UN2814
 INFECTIOUS SUBSTANCE, AFFECTING ANIMALS 6.2 UN2900
 REGULATED MEDICAL WASTE, N.O.S., 6.2, UN3291, PGII

GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.

13. NAME (PRINT/TYPE) SIGNATURE DATE

14. DESIGNATED FACILITY NAME AND ADDRESS:

- 15. PHONE (_____) _____ - _____
- 16. IL FACILITY ID NO. _____

17. NAME (PRINT/TYPE) SIGNATURE DATE

18. ALTERNATE FACILITY NAME AND ADDRESS:

- 19. PHONE (_____) _____ - _____
- 20. IL FACILITY ID NO. _____

21. NAME (PRINT/TYPE) SIGNATURE DATE

22. ADDITIONAL INFORMATION:

23. DISCREPANCIES/CONTINUATION INFORMATION:

In case of a spill, call Illinois Emergency Management Agency (IEMA) at 800/782-7860
and the National Response Center at 800/424-8802 or 202/426-2675.

Printed by Authority of
the State of Illinois
IIS008-52



ILLINOIS POTENTIALLY INFECTIOUS MEDICAL WASTE MANIFEST

This manifest is to be used for the transport of potentially infectious medical waste which is defined in Public Act 67-752.

For shipments not originating in Illinois, if the generator's state requires a copy of the manifest, a photocopy of part 1 should be sent to the generating state.

INSTRUCTIONS FOR COMPLETING MANIFEST *(Please type/print)*

1. Enter hauler company name and address.
2. Enter company telephone number for hauler.
3. Enter the hauling permit number given to transport potentially infectious medical waste (PIMW).
4. Enter the license plate number of the vehicle and the state the license was issued.
5. The driver of the hauling company must verify the number of containers and weight, then print/type name, sign (by hand), and date the manifest. **Retain company 3 for records.**
6. Enter the number of containers.
7. Enter the total weight in pounds/cubic feet.
8. Enter the fee due. Amount of fee is \$.03 per pound.
9. Hauler must sign to acknowledge number of containers and total fee due.
10. Enter generator company name and address.
11. Enter company telephone number for generator.
12. Check type(s) of waste(s) that are being transported.
13. An authorized representative of the generator's company must print/type name, sign (by hand), and date the manifest. **Retain copy 4 for records.**
14. Enter the company name and address of the facility designated to receive the waste. This includes transfer, storage and treatment facilities.
15. Enter company telephone number for the designated facility.
16. Enter the Illinois EPA ten-digit designated facility identification number.
17. The facility must verify that all information is accurate and complete. An authorized representative of the designated facility's company must print/type name, sign (by hand), and date the manifest.
18. **Retain copy 2 for records. Send copy 1 (original) to the generator, within 35 days.**
19. Enter the name and address of an alternate facility (if applicable).
20. Enter company telephone number for alternate facility.
21. Enter the Illinois EPA ten-digit identification number for alternate facility.
22. The alternate facility must verify that all information is accurate and complete. An authorized representative of the designated facility's company must print/type name, sign (by hand), and date the manifest. Retain copy 2 for records. Send copy 1 (original) to the generator within 35 days.
23. If needed, enter additional description, handling information, or information/instructions for the material checked in section 17.
24. Enter/note any discrepancies.

EXHIBIT D

KSI 888.245.9945

KOEHLER SCALE, INC.
3475 Nemesia Ave. Waukegan, IL 60087

Calibration Report AQV0002

Prepared For: _____
Customer: Stericycle, Inc.

Address: 14035 Leetsbir Road

Date of Calibration: 9-17-2007

City: Sturtevant State: WI Zip: 53177

Next Calibration Due: 3/2008

Phone Number: 262.578.5190

Technician: J. Steedman

Department: _____

Equipment Tested

Identification #: SC001 Location: _____ Report Number: 3
Manufacturer: Transcell Model Number: TL-500E Serial Number: N/A
Capacity*: 1,500 Lb. Division Size*: 1 lb. Units of Measure* Lb.

(*Units of measure used in testing of equipment are consistent unless otherwise noted.)

Performance Tests

Calibration Weight Value	Initial Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
250	250	(Y) / N	250	(Y) / N
500	500	(Y) / N	500	(Y) / N
1000	1000	(Y) / N	1000	(Y) / N
1500	1500	(Y) / N	1500	(Y) / N

Shift/Corner Load Tests

Section	Weight Applied	Initial Test	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
1 / Front	500	500	(Y) / N	500	(Y) / N
2 / Back	500	500	(Y) / N	500	(Y) / N
3 / Left	500	500	(Y) / N	500	(Y) / N
4 / Right	500	500	(Y) / N	500	(Y) / N

Comments: _____

Test Standards Used

Customer acknowledgment is the basis of scale certification.

- 501-504 Lb.
 1001 & 1002 Lb.
 J193-202, 07RO-07E9, W733-742, N30-61 Lb.
 25A-25C Lb.
 01RC Gr.
 I-734 & 734A Lb/Oz.
 F365 & 365A Lb/Oz.
 C2702 Lb.
 I-732 & 733 Kg.
 I-735 & 735A Kg.
 M2702 Kg.
All test standards used in the calibration of scales/balances are traceable to NIST. Certificates of traceability will be provided upon request.

KSI 888.245.9945

KOEHLER SCALE, INC.
3475 Nemesia Ave, Waukegan, IL 60087

Calibration Report AQV0002

Prepared For: _____
Customer: Stericycle, Inc.

Address: 14035 Leetshir Road

Date of Calibration: 9-17-2007

City: Starveant State: WI Zip: 53177

Next Calibration Due: 3/2008

Phone Number: 262.978.5100

Technician: J. Stalman

Department: _____

Equipment Tested

Identification #: MT 1003 Location: Out Building Report Number: 2
Manufacturer: Toledo Model Number: Panther Serial Number: 0005571-6BE
Capacity*: 1,000 lb. Division Size*: 0.1 lb. Units of Measure* Lb.

(*Units of measure used in testing of equipment are consistent unless otherwise noted.)

Performance Tests

Calibration Weight Value	Initial Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
0	0	(Y) / N	0	(Y) / N
250	249.3	(Y) / N	250.0	(Y) / N
500	499.1	(Y) / N	500.0	(Y) / N
250	249.4	(Y) / N	250.0	(Y) / N
0	0	(Y) / N	0	(Y) / N

Shift/Corner Load Tests

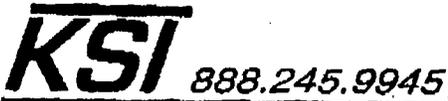
Section	Weight Applied	Initial Test	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
1 / Front	500.0	0	(Y) / N	0	(Y) / N
2 / Back	↓	-9	Y / (N)	0	(Y) / N
3 / Left	↓	0	(Y) / N	0	(Y) / N
4 / Right	↓	0	(Y) / N	0	(Y) / N

Comments: Scale WAS wobbling on Ramps

Test Standards Used

- 501-504 Lb. 1001 & 1002 Lb. J193-202, 07RO-07R9, W733-742, N30-61 Lb. 25A-25C Lb. 01RC Gr.
 I-734 & 734A Lb/Oz F365 & 365A Lb/Oz C2702 Lb. I-732 & 733 Kg. I-735 & 735A Kg. M2702 Kg.

All test standards used in the calibration of scales/balances are traceable to NIST. Certificates of traceability will be provided upon request.



KOEHLER SCALE, INC.
3475 Nemesis Ave. Waukegan, IL 60087

Calibration Report AQV0002

Prepared For: _____
Customer: Stericycle, Inc.
Address: 14035 Leetsbir Road
City: Sturtevant State: WI Zip: 53177
Phone Number: 262.878.5100
Department: _____

Date of Calibration: 9-17-2007
Next Calibration Due: 3/2008
Technician: J. Stalman

Equipment Tested

Identification #: WT40101 Location: Main Building Report Number: 1
Manufacturer: Weigh-Tronix Model Number: WI-130 Serial Number: 005962
Capacity*: 500 lb. Division Size*: 0.1 lb. Units of Measure* Lb.

(*Units of measure used in testing of equipment are consistent unless otherwise noted..)

Performance Tests

Calibration Weight Value	Initial Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
0	0	(Y) / N	0	(Y) / N
100	100.0	(Y) / N	100.0	(Y) / N
250	250.0	(Y) / N	250.0	(Y) / N
500	500.0	(Y) / N	500.0	(Y) / N
0	0	(Y) / N	0	(Y) / N

Shift/Corner Load Tests

Section	Weight Applied	Initial Test	Results conform to: NIST HB44 T.N.3.1 Customer Specifications	Final Test Readings	Results conform to: NIST HB44 T.N.3.1 Customer Specifications
1 / Front	100.0	0	(Y) / N	0	(Y) / N
2 / Back	↓	↓	(Y) / N	↓	(Y) / N
3 / Left	↓	↓	(Y) / N	↓	(Y) / N
4 / Right	↓	↓	(Y) / N	↓	(Y) / N

Comments: _____

Test Standards Used

Customer acknowledges he has been advised of scale capabilities.

- 501-504 Lb. 1001 & 1002 Lb. J193-202, 07RO-07RS, W733-742, N30-61 Lb 25A-25C Lb. O1RC Gr.
 I-734 & 734A Lb/Oz F365 & 365A Lb/Oz C2702 Lb. I-732 & 733 Kg. I-735 & 735A Kg. M2702 Kg.
All test standards used in the calibration of scales/balances are traceable to NIST. Certificates of traceability will be provided upon request.

NSI 888.245.9845
KOHLER SCALE, INC.
3475 N. Nantua Ave. • Waukegan, IL 60087

W.O. # 13574
DATE _____

Customer: Stericycle, Inc.
Address: 14035 Leetshir Road
Sturtevant, WI 53177
Contact: Bill King

P.O. # _____
Date Required: _____
Customer ID: STERICYCLE
Phone #: 262.878.5100

Special Instructions: _____
Inspection of plant scales as per AOV #032505MR1.

- Type of Service:
- ISO 9000 / AQV Inspection / Calibration
 - Scheduled Inspection / Calibration
 - Service call Repair / Calibration
 - In shop Repair / Testing / Calibration
 - Sales / Delivery Rental / Lease

As Found: _____

Services Performed: DEFECTIVE 180 DAY CALIBRATION
ON IN PLANT SCALES

All test weights and calibration procedures used meet or exceed the requirements of N.I.S.T. Handbook 44 and state regulations.

QTY.	PART NO. / DESCRIPTION	UNIT	AMOUNT

Regular Hrs: _____ @ _____ \$ _____
Overtime: _____ @ _____ \$ _____
Mileage: _____ @ _____ \$ _____
Total Parts: _____ \$ _____
Tax: _____ \$ _____
Misc. Expenses: _____ \$ _____
Total Amount: _____ \$ _____

The services indicated have been performed to the satisfaction of the customer and/or the undersigned agent of the customer.

J. Stallman 9-17-07
Technician's Signature Date

X Bill King 9-17-07
Customer's Signature Date

Work Complete
Work Incomplete
Work Rescheduled

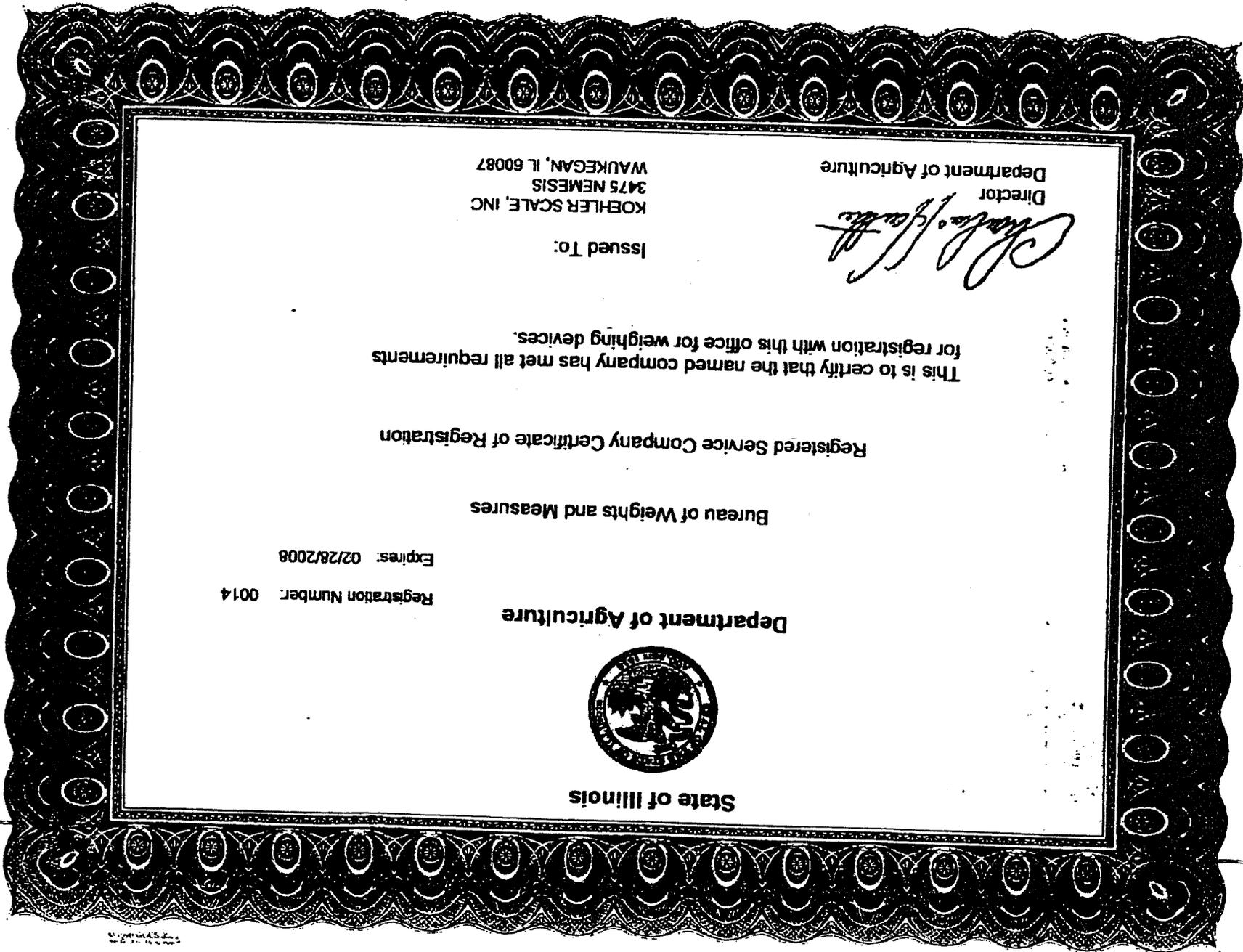
EXHIBIT E

DEC-17-2007 13:01

B4733361456

97%

P.01



State of Illinois



Department of Agriculture

Registration Number: 0014
Expires: 02/28/2008

Bureau of Weights and Measures

Registered Service Company Certificate of Registration

This is to certify that the named company has met all requirements for registration with this office for weighing devices.

Issued To:

KOHLER SCALE, INC
3475 NEMESIS
WAUKEGAN, IL 60087

Director
Department of Agriculture

DEC-17-2007 12:57 FROM: KOHLER SCALE INC. B4733361456 TO: 17135465830 P.1/1

EXHIBIT F

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER p: WEIGHTS AND MEASURES
PART 600 WEIGHTS AND MEASURES ACT
SECTION 600.330 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY HANDBOOK 44

Section 600.330 National Institute of Standards and Technology Handbook 44

Specifications, tolerances, and regulations for commercial weighing and measuring devices recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 and supplements thereto or in any publication revising or superseding Handbook 44 shall be the specifications, tolerances, and regulations for commercial weighing and measuring devices of this State, except insofar as specifically modified, amended, or rejected by a regulation issued by the Director (Section 8 of the Weights and Measures Act [225 ILCS 470/8]). National Institute of Standards and Technology Handbook 44 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The following sections of the National Institute of Standards and Technology's Handbook 44 shall not be adopted unless a different implementation date is specified:

- a) UR.2.2. Ticket Printer; Customer Ticket in Sec. 3.31 Vehicle-Tank Meters User Requirements.
- b) Sec. 5.56.(a) Grain Moisture Meters. Sec. 5.56.(a) shall be effective January 1, 2000. The applicability date for Section 5.56.(b) Grain Moisture Meters is extended until the implementation of Sec. 5.56.(a).

(Source: Added at 22 Ill. Reg. 1141, effective January 1, 1998)

CHAPTER 98

WEIGHTS AND MEASURES

98.01	Definitions.	98.146	Licensing milk weighers and samplers.
98.02	Systems of weights and measures; special units.	98.15	False testing.
98.03	State standards; specifications and tolerances.	98.16	Licensing of vehicle scale operators.
98.04	Municipalities.	98.18	Installing and servicing weights and measures.
98.05	Enforcement authority; measurement center laboratory.	98.21	Sale of bread.
98.06	Method of sale of commodities.	98.22	Bulk deliveries sold in terms of weight and delivered by vehicle.
98.07	Declaration of quantity.	98.225	Deliveries of certain liquid fuels.
98.08	Price refunds; price information.	98.245	Liquefied petroleum gas sales.
98.12	Sale of ice cream and similar frozen products.	98.246	Petroleum product sales.
98.13	Milk or cream tests; samples; patrons' statement.	98.25	Vehicle scales; annual testing.
98.14	Standardization of Babcock pipettes.	98.26	Prohibited acts; penalty; injunction.
98.145	Licensing of milk and cream testers.		

Cross-reference: See definitions in s. 93.01.

98.01 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Incorrect" as applied to weights and measures and commodities includes any failure to comply with the requirements of this chapter or rules issued thereunder.

(2) "Inspector" means a state inspector of weights and measures.

(3) "Municipality" means a city or village.

(4) "Scaler" and "deputy scaler" means a scaler of weights and measures and deputy scaler of weights and measures of a municipality, respectively.

(5) "Sell", "sale" and "sold" include barter or exchange, and any offering or exposing for sale or possession with intent to sell.

(6) "Weight" means net weight when used in reference to a commodity.

(7) "Weights and measures" means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the same are operated in a public utility system.

History: 1983 a. 189.

98.02 Systems of weights and measures; special units. (1) The system of weights and measures in customary use in the United States or the metric system of weights and measures shall be the only systems used for commercial purposes in this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, published by the national institute of standards and technology, shall govern weighing and measuring equipment and transactions in this state.

(2) The term "barrel", when used in connection with fermented malt beverages, means a unit of 31 gallons. The term "ton" means a unit of 2,000 pounds avoirdupois weight. The term "cord", when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

History: 1981 c. 79; 1989 a. 165.

98.03 State standards; specifications and tolerances.

(1) Weights and measures obtained by the state as standards and certified for use as such by the national institute of standards and technology shall be the state standards of weight and measure. They shall be in the custody of the department and shall be used only for verification of other standards.

(2) The department may issue rules governing the construction, installation and use of commercial weights and measures and

prescribing tolerances therefor. The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the national institute of standards and technology shall apply in this state except as modified by such rules.

History: 1989 a. 165.

Cross Reference: See also ch. ATCP 92, Wis. adm. code.

98.04 Municipalities. (1) Except as provided in sub. (2), a municipality having a population of more than 5,000, according to the most recent population estimate made by the department of administration under s. 16.96, shall enforce the provisions of this chapter within its jurisdiction. For this purpose, a municipality shall establish a municipal department of weights and measures. Each municipal department of weights and measures shall have such number of qualified scalers or inspectors as will ensure compliance with this chapter. Municipal scalers or inspectors shall have the same authority as scalers or inspectors of the department of agriculture, trade and consumer protection. The selection of municipal scalers or inspectors shall be from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. The municipality shall procure and keep at all times a complete set of standards of weight and measure conforming to the state standards and shall submit the standards for certification at regular intervals as required by the department of agriculture, trade and consumer protection. The municipality shall keep a complete record of its work and annually shall file a report thereof with the department of agriculture, trade and consumer protection. The municipality may enact ordinances that regulate weights and measures and that are not in conflict with this chapter or the rules of the department of agriculture, trade and consumer protection. The municipality may assess fees that do not exceed the actual cost of its weights and measures program.

(2) A municipality that is required to establish a department of weights and measures under sub. (1) may contract with the department of agriculture, trade, and consumer protection to enforce the provisions of this chapter within the municipality's jurisdiction instead of establishing its own department if the department of agriculture, trade and consumer protection agrees to enter into such a contract. The department of agriculture, trade and consumer protection may charge the municipality fees sufficient to cover the department's costs under the contract. A municipality may recover an amount not to exceed the cost of these fees by assessing fees on the persons who receive services under the weights and measures program.

History: 1983 a. 230; 1997 a. 27; 1999 a. 9.

98.05 Enforcement authority; measurement center laboratory. (1) There is hereby conferred upon scalers and inspectors of weights and measures, police power; such scalers and inspectors shall be provided with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the

98.05 WEIGHTS AND MEASURES

same, upon demand, to any person questioning their powers, and they are hereby empowered and authorized to make arrests, with or without formal warrant, of any persons violating any statute relating to weights and measures.

(2) Sealers or inspectors may enter and go into or upon any structure or premises, and may stop any person or vehicle for the purpose of enforcing this chapter. They shall inspect and test any weights and measures or commodities which are sold or used commercially as often as necessary to secure compliance with this chapter, and may seize as evidence, or reject and mark or tag as "rejected" those which are incorrect. A representative sample may be used as the basis to determine whether any lot is incorrect.

(3) Weights and measures and commodities that have been rejected may be confiscated and destroyed by a sealer or inspector if not corrected within 30 days or such longer period as the sealer or inspector may authorize, or if used or disposed of without the sealer's or inspector's written authorization.

(4) Sealers or inspectors may seal or mark with appropriate devices such weights and measures as are found upon inspection and test to be in conformance with this chapter.

(5) The department shall:

(a) Establish and maintain a measurement center laboratory for the testing and calibration of weights and measures; and

(b) Fix and collect charges sufficient to cover the cost for the testing and calibration done in the measurement center laboratory.

History: 1993 a. 16, 492.

98.06 Method of sale of commodities. (1) Commodities in liquid form shall be sold by liquid measure and commodities not in liquid form shall be sold by weight but liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure if such methods are in general use and give accurate information as to the quantity of commodity sold.

(2) (a) Berries and small fruits may be sold by measure only if in containers having capacities of one-half dry pint, one dry pint or one dry quart.

(b) If a commodity is packaged in an aerosol container, it shall be sold by weight including the propellant.

(3) This section shall not apply to commodities sold in compliance with a state or federal law which prescribes another method of sale, or to commodities sold for immediate consumption on the premises where sold.

History: 1999 a. 83.

Cross Reference: See also ch. ATCP 91, Wis. adm. code.

98.07 Declaration of quantity. (1) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling price, shall be sold unless the weight, measure or count of the commodity is conspicuously declared on the commodity or its tag, label or sign, but a declaration of count is not required if the selling price is for a single unit, or a set or combination of commodities customarily sold to and understood by consumers as a single unit, or if the commodity is packaged prior to sale and the package contains 6 units or less which can be easily counted without opening the package.

(2) No commodity shall be wrapped or its container made, formed or filled so as to mislead the purchaser; nor shall the qualifying term "when packed", or the terms "jumbo", "giant" or "full", or words of similar import that tend to mislead the purchaser as to the amount of the commodity, be used in connection with a declaration of quantity.

(3) With respect to commodities packaged prior to sale, the department shall issue rules permitting reasonable variations from declared quantity which unavoidably occur in good packaging and distribution practices.

(4) In order to prevent consumer deception, the department shall prescribe, by rule, standards for determining and declaring

weight, measure or count, including the conspicuousness of quantity declarations.

History: 1975 c. 308.

Cross Reference: See also chs. ATCP 90, 91, and 92, Wis. adm. code.

98.08 Price refunds; price information. (1) A person who uses an electronic scanner to record the price of a commodity or thing and who sells the commodity or thing at a price higher than the posted or advertised price of that commodity or thing at least shall refund to a person who purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale.

(2) A person who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the requirements of sub. (1).

History: 1995 a. 319.

98.12 Sale of ice cream and similar frozen products. Ice cream, ice milk, water ices or other frozen desserts of a similar nature packaged prior to sale shall be sold by liquid measure. This section does not apply if the products are packaged at time of sale at retail or sold in quantities of less than one-half liquid pint.

History: 1973 c. 178; 1983 a. 367; 1987 a. 78; 1999 a. 9.

98.13 Milk or cream tests; samples; patrons' statement. (1) The Babcock or ether extraction tests shall be used to determine the milk fat content of milk or cream purchased by or sold to dairy plants, but the department may issue rules permitting the use of other methods or devices for testing and determining such milk fat content.

(2) Each sample used for testing shall be representative of the milk or cream from which taken. Composite samples shall consist of representative samples taken during a period not exceeding 16 consecutive days. The unused portion of tested samples shall be retained not less than 5 days after testing to enable retesting by the department.

(3) All purchasers of milk or cream from the producer, when using such milk fat tests to determine the value of any milk or cream received or bought by such purchaser, shall, when paying for such milk or cream, include an itemized statement to each patron showing the daily number of pounds of milk delivered, the total amount of butterfat content or test, transportation costs, and other charges and deductions for the period of time for which payment is made; except that the daily weights need not be shown on such statement if weight slips are furnished daily to producers.

(4) Whenever milk is sold under an agreement, express or implied, that the value of the milk shall be determined by its proportion of butter fat, the price to be paid shall be based on a 3.5% butter fat standard.

(5) To insure the accuracy of the milk fat tests prescribed herein the department shall issue rules governing the collection and care of samples, the conduct of tests and the keeping of test records.

History: 1997 a. 253.

98.14 Standardization of Babcock pipettes. (1) All bottles and pipettes used in measuring milk or milk products to determine the percentage of fat in the milk or milk products shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "Sealed", and in the side of the pipette or the side or bottom of the bottle the name, initials or trademark of the manufacturer and the manufacturer's designating number, which designating number shall be different for each manufacturer and may be used in identifying bottles. The designating number shall be furnished by the department upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of \$1,000 with sureties to be approved by the attorney general, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the design-

nating number, and to whom furnished, shall be kept in the office of the department.

(2) Any manufacturer who sells Babcock milk, cream or butter test bottles or milk pipettes, for use in this state, that do not comply with the provisions of this section shall be subject to a penalty of \$500 to be recovered by the attorney general in an action brought in the name of the people of the state against the offender's bondsmen. No dealer shall use, for the purpose of determining the percent of milk fat in milk or milk products, any bottles or pipettes that do not comply with the provisions of this section.

(3) The department shall prescribe specifications with which the glassware described in this section shall comply. The unit of graduation for all Babcock glassware shall be the true cubic centimeter or the weight of one gram of distilled water at 4 degrees centigrade.

(4) Sealers of weights and measures are not required to seal Babcock milk, cream or butter test bottles or milk pipettes marked as in this section provided, but they shall from time to time make tests of individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain whether the above provisions are being complied with and they shall report immediately to the department violations found.

History: 1993 a. 492; 1997 a. 253.

98.145 Licensing of milk and cream testers. (1) To secure fair and accurate tests to producers and manufacturers for the determination of the basis of payment or for settlement for such milk or cream, or for the purpose of official inspection, or for the making of records of dairy production, persons making such milk fat tests shall be licensed by the department as herein provided.

(2) No person may engage as a tester of milk or cream to determine its value for payment or for the purpose of official inspection or for records of dairy production for the purposes described above unless the person holds a license issued by the department; but no such license is required of a licensed cheesemaker or butter-maker. The license shall expire biennially on October 31 of the 2nd year commencing after the date of issuance or renewal. Each application for milk tester license or renewal thereof shall be accompanied by a fee of \$50. Each application shall be made upon forms provided by the department. If the department conducts a reinspection of any milk or cream tested by a person licensed under this subsection due to any violation of any federal or state law which the department determines in a regularly scheduled inspection of milk or cream tested by that person, the department shall charge that person \$25 for that reinspection.

(3) To qualify for a milk and cream tester's license the applicant shall not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, shall furnish 2 references who have known the applicant for at least one year and shall give proof of ability to perform the necessary duties to the satisfaction of the department by satisfactorily passing a written examination pertaining to milk and cream sampling and care of samples and use of the Babcock test or other test method approved by the department; and by actual demonstration in the laboratory of his or her ability to determine accurately the milk fat content of milk and cream including special emphasis on the handling and testing of composite samples of milk and cream.

(4) Unless provision is made for the testing of milk or cream by a duly licensed tester as provided herein, no dairy plant shall receive any milk or cream unless at least one employee is a milk and cream tester licensee who shall be responsible for the care of samples and the testing of milk and cream and who shall be regularly assigned to the duty of making such tests.

(5) This section shall not be construed to require the licensing of city or village sanitary or dairy inspectors.

History: 1977 c. 216; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 27.

98.146 Licensing milk weighers and samplers. (1) All persons except licensed cheesemakers and buttermakers taking weights and samples of milk in bulk tanks or measuring milk in bulk tanks to determine weight, on the farm premises where such milk is produced, shall be licensed by the department under this section, and no person who is not so licensed shall engage in such activities.

(2) Each application for a license under this section or license renewal shall be made on forms provided by the department and shall be accompanied by the license fee required under sub. (4). The license shall expire biennially on September 30 of the 2nd year commencing after the date of issuance or renewal. The applicant shall not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and shall give proof of ability to engage in such weighing and sampling to the satisfaction of the department by satisfactorily passing a written examination pertaining to such activities. If the department conducts a reinspection of any measurement by a person licensed under this subsection due to any violation of any federal or state law which the department determines in a regularly scheduled inspection of that measurement, the department shall charge the holder of that license the reinspection fee required under sub. (4) for that reinspection.

(3) No dairy plant shall receive any milk required to be weighed and sampled by a licensee under this section unless it has been so weighed and sampled.

(4) The department may establish by rule the amount of license or reinspection fees required under sub. (2). Unless otherwise established by department rule, a license fee under sub. (2) is \$40 and a reinspection fee under sub. (2) is \$40.

History: 1977 c. 216; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 27; 1991 a. 39.

98.15 False testing. (1) No person shall manipulate, under-read or overread or make any false determination by the Babcock test or any other test used for determining the value of milk or cream. No person shall make any false record or report of the results of any such test.

(2) A district attorney to whom any violation of this section is reported shall cause appropriate actions or proceedings to be instituted for the collection of a forfeiture or fine or for the enforcement of other remedies. In any enforcement action the court may, in addition to any other penalty provided, order restitution to any party injured by violation of this section. If the violator is convicted of a crime, restitution shall be in accordance with s. 973.20.

History: 1979 c. 264; 1987 a. 398.

Sub. (1) did not preclude prosecution for felony fraud under s. 943.20 (1) (d) when the state alleged that the defendant misrepresented the quality of milk sold. State v. Ploockelman, 2007 WI App 31, 299 Wis. 2d 251, 729 N.W.2d 784, 06-1180.

98.16 Licensing of vehicle scale operators. (1) DEFINITIONS. In this section:

(b) "Vehicle scale" means a commercial scale that is designed to weigh loaded or unloaded highway, farm or industrial vehicles, except that it does not include a scale that is operated exclusively by this state.

(2) LICENSE. (a) 1. Except as provided in subd. 2., a person may not operate a vehicle scale without a license from the department. A separate license is required for each scale. A license is not transferable between persons or scales. A license expires on March 31 annually. The department shall provide a license application form for persons applying for a license. The form may require information reasonably required by the department for licensing purposes. A license application shall be accompanied by applicable fees under pars. (b) and (c).

2. Subdivision 1. does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license to operate the scale under this paragraph.

98.16 WEIGHTS AND MEASURES

(b) The fee for a license under par. (a) is \$60, except that the department may establish a different fee by rule.

(c) An applicant for a license under par. (a) shall pay a license fee surcharge of \$200 in addition to the license fee if the department determines that within one year prior to submitting the license application the applicant operated a vehicle scale without a license as required by par. (a). Payment of the license fee surcharge does not relieve the applicant of any other civil or criminal liability for the operation of a vehicle scale without a license but shall not constitute evidence of violation of a law.

(d) The department shall not issue or renew a license under par. (a) unless the applicant pays all fees required under pars. (b) and (c) as set forth in a statement issued by the department. The department shall refund a fee paid under protest if the department determines that the fee was not required to be paid under this section.

(3) RULES. The department may promulgate rules to establish license fees under sub. (2) (b) and to regulate the operation of vehicle scales. The rules may include all of the following:

(a) Standards for the construction and maintenance of vehicle scales.

(b) Requirements for testing and certification of vehicle scales.

(c) Requirements for record keeping and reporting related to the testing and certification of vehicle scales.

History: 1993 a. 16; 1997 a. 27; 1999 a. 9.

98.18 Installing and servicing weights and measures.

(1) LICENSE REQUIRED. (a) Except as provided in par. (bm), no person may engage in the business of installing, servicing, testing or calibrating weights and measures without a license from the department. A license expires on December 31 annually.

(bm) Paragraph (a) does not apply to any of the following:

1. A person who installs, services, tests or calibrates weights and measures only as an employee of a person who is required under par. (a) to hold a license to perform those services.

2. An inspector or metrologist employed by this state, a county or a municipality to test or calibrate weights and measures.

(1d) LICENSE APPLICATION. An applicant for a license issued under sub. (1) (a) shall apply on a form provided by the department. The applicant shall provide on the form information that is reasonably required by the department for issuing licenses under this section. The license application shall be accompanied by the applicable fees under subs. (1h) and (1p).

(1h) LICENSE FEES. Unless the department establishes different fees by rule, the following annual license fees shall apply:

(a) If the applicant solely engages in installing, servicing, testing or calibrating weights and measures that the applicant owns, the applicant for a license under sub. (1) (a) shall pay a license fee in the amount of \$100.

(b) If the applicant installs, services, tests or calibrates weights or measures for others, the applicant for a license under sub. (1) (a) shall pay all of the following:

1. A basic license fee of \$200.

2. A supplementary license fee of \$50 for each additional business location if the applicant operates from more than one business location.

(1p) SURCHARGE FOR OPERATING WITHOUT A LICENSE. An applicant for a license under sub. (1) (a) shall pay a license fee surcharge of \$200 in addition to the license fee if the department determines that within one year before making the application the applicant violated sub. (1) (a). Payment of this surcharge does not relieve the applicant of any other civil or criminal liability that the applicant may incur because of the violation of sub. (1) (a), but does not constitute evidence of violation of a law.

(1t) LICENSE CONTINGENT ON FEE PAYMENT. The department may not issue or renew a license under sub. (1) (a) unless the applicant pays all fees required under subs. (1h) and (1p) as set forth in a statement issued by the department. The department shall

refund a fee paid under protest if the department determines that the fee was not required to be paid under this section.

(2) RULES. The department may promulgate rules to establish license fees under sub. (1h) and to regulate the installation, servicing, testing and certification of weights and measures. The rules may include record-keeping and reporting requirements.

(3) PROHIBITED PRACTICES. A person who installs, services, tests or calibrates weights and measures may not do any of the following:

(a) Install or adjust a weight or measure to make the weight or measure incorrect or to cause the weight or measure to violate this chapter or rules promulgated under this chapter.

(b) Misrepresent that a weight or measure is correct.

(c) Use any test weight or measure that has not been inspected, tested and approved by the department or by a laboratory certified by the national institute of standards and technology.

History: 1993 a. 16; 1997 a. 27.

98.21 Sale of bread. (1) Except as provided in sub. (2), no person may manufacture for sale in this state, offer to sell or sell bread unless the bread is sold by weight.

(2) Subsection (1) does not apply to stale bread if the bread is conspicuously marked "stale bread" or is placed in a container conspicuously marked "stale bread" and sold as and for stale bread.

History: 1971 c. 113; 1983 a. 14, 329; 1993 a. 492; 1999 a. 9.

98.22 Bulk deliveries sold in terms of weight and delivered by vehicle. (1) When a commodity in bulk is delivered by vehicle to an individual purchaser and the commodity is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket with the following information clearly stated in ink or by means of other indelible marking equipment:

(a) The name and address of the vendor.

(b) The name and address of the purchaser.

(c) The net weight of the delivery expressed in pounds.

(d) The gross and tare weights of the delivery if the net weight of the delivery is derived from determination of gross and tare weights.

(2) Where milk is picked up at farms, only the identity of the vendor and the net weight need be stated.

(3) One of the duplicate delivery tickets required under sub. (1) shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered, on demand to the inspector or sealer, who may retain it as evidence and issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away the purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to the purchaser. If the commodity is to be weighed by the purchaser, the purchaser shall furnish the vendor the duplicate delivery ticket provided for in this section.

History: 1993 a. 492; 1995 a. 225.

98.225 Deliveries of certain liquid fuels. (1) In this section, "liquid fuel" means gasoline, kerosene, fuel oil, diesel fuel or alternate fuels, as defined in s. 78.39 (1).

(2) No person may sell liquid fuel by liquid measure and deliver it by a vehicle equipped with a pump and metering device unless the pump and metering device is equipped with a delivery ticket printer. Except as provided in sub. (3), the seller shall, at the time of delivery, either provide a copy of the delivery ticket printed by the delivery ticket printer to the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain all of the following information:

(a) The name and address of the seller.

(b) The name and address of the purchaser.

(c) A description of the liquid fuel delivered.

(d) The meter reading showing the volume of liquid fuel delivered.

(3) If there is a malfunction with the delivery ticket printer, the seller shall, at the time of delivery, either provide the purchaser or leave at the place of delivery the information required under sub. (2) in written form.

History: 1993 a. 234.

98.245 Liquefied petroleum gas sales. (1) SALES EXCEPT BY UNITS OF MEASUREMENT PROHIBITED. It is unlawful to sell or offer to sell at retail any liquefied petroleum gas except by avoirdupois weight, specified in pounds; liquid measure, specified in gallons; or vapor measure, specified in cubic feet, or such other units as may be approved by the department.

(2) PACKAGES TO BEAR TARE WEIGHT. When liquefied petroleum gas is sold or offered for sale at retail by weight, in portable containers, the tare weight of the container shall be plainly and conspicuously marked on the outside of the container. Tare weight shall not be construed to include the valve protecting cap, which shall be removed when weighing. It is unlawful to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare weight as required by this section, or which packages or containers bear a false statement as to tare weight, provided packages intended to be used only once and clearly marked with the statement "not refillable" are exempt from this tare weight requirement.

(3) REFILLING: CREDIT. When liquefied petroleum gas is sold by the package or container, either by a refilling of a container or an exchange of containers, the vendor shall give the purchaser full credit for the unused liquid remaining in a container being exchanged or refilled.

(4) CORRECTION TO TEMPERATURE OF VOLUME SOLD. (a) When liquefied petroleum gas is sold or delivered to a consumer as a liquid and by liquid measurement the volume of liquid so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through use of an approved volume correction factor table, or through use of a meter that is equipped with a sealed automatic compensating mechanism and that is in compliance with sub. (7). All sale tickets shall show the delivered gallons, the temperature at the time of delivery and the corrected gallonage, or shall state that temperature correction was automatically made.

(b) When liquefied petroleum gas is sold or delivered to a consumer in vapor form by vapor measurement, the volume of vapor so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through the use of a meter that is equipped with a sealed automatic temperature compensating mechanism. This paragraph shall apply to all meters installed for use in the vapor measurement of liquefied petroleum gas in vapor form after May 24, 1978. This paragraph does not prohibit the continued use of meters previously installed without a self-sealing automatic temperature compensating mechanism, but no such meter may be continued in use after January 1, 1986, unless brought into compliance with this paragraph. Subsection (7) does not apply to meters used to sell or deliver liquefied petroleum gas that are subject to this paragraph.

(5) SALES TICKETS TO SHOW QUANTITY SOLD. Sales tickets or invoices shall show the quantity of liquefied petroleum gas sold, expressed in pounds, or gallons as set forth in sub. (4), or cubic feet, or other unit approved by the department. When vapor meters reading in approved units other than cubic feet are used, the invoice shall clearly indicate to the purchaser a factor to convert to cubic feet.

(6) PUMPS AND METERS. (a) No person may sell liquefied petroleum gas and deliver it by a vehicle equipped with a pump and meter unless the meter is equipped with a delivery ticket printer and is in compliance with sub. (7). Except as provided in par. (b), the seller shall, at the time of delivery, either provide a copy of the delivery ticket printed by the delivery ticket printer to

the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain all of the following information:

1. The name and address of the seller.
2. The name and address of the purchaser.
3. The meter reading showing the volume of liquefied petroleum gas delivered.

(b) If there is a malfunction with the delivery ticket printer, the seller shall, at the time of delivery, either provide the purchaser or leave at the place of delivery the information required under par. (a) in written form.

(7) METERS: REGISTRATION; TESTING; FEES. (a) *Registration of meters.* 1. The department shall promulgate rules to require owners to register meters that are used to measure amounts of liquefied petroleum gas the sale or delivery of which is subject to sub. (4) (a).

2. The owner of a meter shall pay to the department a one-time fee of \$25 to register a meter under subd. 1. The owner shall pay the fee within 60 days after the effective date of the rules promulgated under subd. 1., or within 60 days after the owner acquires a meter for which a registration fee has not been paid, whichever is later.

3. If an owner of a meter fails to comply with subd. 2., the department may assess the owner a fee of not more than \$250 for that meter. If the owner does not pay the fee under this subdivision within 30 days after it is assessed, the department shall increase the fee by \$10 for each day thereafter until the owner of the meter complies with subd. 2.

(b) *Testing of meters.* 1. The owner of a meter required to be registered under par. (a) shall have the meter tested annually by a meter servicing company that is licensed by the department.

2. A meter servicing company shall file with the department a report, for each meter, containing the results of the testing under subd. 1. within 30 days after completing the testing.

3. If the department determines that a meter has not been tested within the last year, the department shall notify the owner. The owner shall have 30 days after being notified to have the meter tested.

4. If the owner fails to have the owner's meter tested as required under subd. 3., the department may assess the owner a fee of not more than \$100 for that meter.

5. If the meter servicing company fails to file a report in compliance with subd. 2. for a meter, the department may assess the meter servicing company a fee of up to \$100 for each report.

History: 1975 c. 308; 1977 c. 393; 1993 a. 234; 1995 a. 183; 1997 a. 27.

98.246 Petroleum product sales. (1) In this section, "petroleum products" has the meaning given under s. 168.03.

(2) Petroleum products may not be sold from a terminal or storage facility in this state on any basis other than gross volume without correction for temperature.

History: 1983 a. 251.

98.25 Vehicle scales: annual testing. (1) The owner or operator of a scale with a weighing capacity of 5,000 pounds or more used for the commercial weighing of commodities shall cause the scales to be tested and inspected annually for accuracy by an independent scale testing or service company in accordance with specifications, tolerances, standards and procedures established by the national institute of standards and technology and the department for the testing and examination of scales, using test weights approved by the department. The annual tests and inspections shall be at the expense of the owner or operator.

(2) A scale testing or service company conducting a test under sub. (1) shall, at the time of testing and inspection, promptly furnish to the owner or operator of the scale a report showing the results of the test and inspection with an additional copy for the department. The owner and operator of a scale which is found to be inaccurate at the time of testing shall immediately withdraw the

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scale from further use until necessary corrections, adjustments or repairs are made and the scale is determined to be accurate by the scale testing or service company. A copy of the report prepared by the scale testing or service company shall be filed with the department by the owner or operator of the scale within 15 days after the test and inspection has been completed. The department shall maintain a list open for public inspection of all scales tested and found to be accurate on the annual test.

(3) No person may falsify a test or determination of the accuracy of a vehicle scale tested under sub. (1) or file with the department a false report of a test of a vehicle scale under sub. (1).

(4) This section does not apply to a railway scale used exclusively for the weighing of commodities on railroad track vehicles.

History: 1981 c. 20; 1989 a. 165.

Cross Reference: See also ch. ATCP 92, Wis. adm. code.

98.26 Prohibited acts; penalty; injunction. (1) A person who does any of the following acts shall forfeit not less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$1,000 for a subsequent offense. A person who intentionally does any of the following acts shall be fined not more than

\$10,000 or imprisoned not more than 9 months or both:

(a) Hinders, obstructs or impersonates a sealer or inspector.

(b) Uses or has in possession for use in buying or selling any commodity or service, or sells, any incorrect weight or measure or causes a weight or measure to be incorrect.

(c) Represents in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.

(d) Uses or disposes of any rejected weight or measure, or commodity, or removes therefrom any official tag, seal, stamp or mark, without written authority from a sealer or inspector.

(e) Violates s. 98.15 (1).

(f) Violates any other provision of this chapter or any rules promulgated under this chapter for which no specific penalty is prescribed.

(2) Upon application of the department or a municipality, a circuit court may grant a temporary or permanent injunction restraining any person from violating any provision of this chapter.

History: 1979 c. 264; 1987 a. 250; 1995 a. 319.

Cross Reference: See also chs. ATCP 91 and 92, Wis. adm. code.

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Chapter ATCP 92

WEIGHTS AND MEASURES

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Note: Chapters Ag 51, 52, 115 and 120 as they existed on December 31, 1991 were repealed and a new chapter ATCP 92 was created effective January 1, 1992; Chapter Ag 52 was renumbered chapter ATCP 92 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of ss. 93.07 (1), 93.15 (1), 98.03 (2), 98.16 (3), 98.18 (1h) and (2) and 100.20 (2), Stats. Violations of this chapter are subject to the penalties and remedies provided under ss. 98.26, 100.20 (5) and (6) and 100.26 (3) and (6), Stats.

Subchapter I — General Provisions

ATCP 92.01 Definitions. In this chapter:

(1) "Commodity" means any product or commodity that is sold, offered for sale, or held or distributed for sale in this state. "Commodity" includes a consumer commodity.

(1e) "Construction plan" means a set of detailed blueprints for the construction of a vehicle or livestock scale, including the construction of any scale pit, footings, base slabs, piers, end walls and approaches.

(1m) "Consumer commodity" has the meaning given in s. ATCP 90.01 (5).

(1s) "Correct," as applied to a weighing or measuring device, means that the weighing or measuring device complies with this chapter and ch. 98, Stats.

(2) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(2g) "Individual" means a natural person.

(2r) "Inspector" means any of the following:

(a) A department weights and measures inspector.

(b) A municipal weights and measures sealer or inspector under s. 98.04 (1), Stats.

(3) "Livestock scale" means a scale designed to weigh livestock, but does not include a scale which is designed to weigh only one animal at a time.

(4) "Load receiving element" means that portion of a scale, such as a scale platform or deck, which receives the load to be weighed.

(5) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, or other legal organization or entity.

(6) "Pit neck" means that part of a scale pit, usually an extension of a scale pit wall, which encloses the end of the transverse lever of a lever-type weighing element, and which supports the indicating element.

(7) "Portable vehicle scale" means any self-contained vehicle scale that is all of the following:

(a) Designed and engineered by the original manufacturer to measure weight accurately when used without a permanent concrete foundation or approach ramp.

(b) Equipped with lifting and positioning mechanisms that are built into the structure of the scale frame.

(c) Designed for use with approach bulkheads.

(d) Readily movable between job sites.

(9) "Vehicle scale" means a scale designed to weigh loaded or unloaded highway, farm or industrial vehicles, and includes above-ground scales, dump scales and portable scales.

(10) "Weighing element" means that portion of a scale that supports the load-receiving element and transmits to the indicating element a signal or force resulting from the load applied to the load-receiving element.

(11) "Weighing or measuring device" means any device used to determine the weight or measure of a commodity, for commercial purposes. "Weighing or measuring device" includes a scale, meter, measuring device or timing device that affects the determination of weight or measure.

(12) "Weights and measures" has the meaning given in s. 98.01 (7), Stats.

(13) "Weights and measures service company" means a person that is required to be licensed under s. ATCP 92.20 (1).

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; cr. (11m), am. (14), Register, December, 1995, No. 480, eff. 1-1-96; CR 01-028: r. (1), (6) to (9) and (12) and renum. (2) to (5), (10), (11), (11m), and (13) to (15) to be: (1) to (10), Register September 2001 No. 549, eff. 10-1-01; CR 02-141: renum. (1) to be (1e), cr. (1), (1m), (1s), (2g), (2r), (11) to (13), am. (5), r. (8) Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.02 Weighing and measuring devices; general requirements. (1) Except as provided in this chapter, weighing and measuring devices shall comply with applicable specifications, tolerances and other technical requirements set forth in the national institute of standards and technology handbook 44 (specifications, tolerances and other technical requirements for weighing and measuring devices), 2006 edition.

Note: See s. 98.03 (2), Stats. The current edition of the National Institute of Standards and Technology Handbook 44 (Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices) is on file with the department, the secretary of state and the revisor of statutes. Copies may be purchased from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(2) Except as provided in sub. (3), no person may sell, offer for sale, use or distribute for use in this state a weighing or measuring device unless the device is a type or model certified by one of the following:

(a) The chief of the office of weights and measures of the national institute of standards and technology.

(b) The national type evaluation program administered by the National Conference on Weights and Measures.

Note: Devices certified under par. (b) are commonly known as "NTEP approved" devices.

(3) Subsection (2) does not apply to any of the following:

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(a) A commercial weighing or measuring device that is first put into use in this state before January 1, 1997.

(b) A commercial weighing or measuring device that is designed, built or customized for a specific application at a single location.

(c) A commercial weighing or measuring device for which neither the national institute of standards and technology nor the national conference of weights and measures has yet adopted testing and certification procedures, provided that the department authorizes the sale and use of that device in this state. A person seeking department authorization shall apply to the department in writing. The application shall include relevant engineering and use specifications for the device, and shall document that neither the national institute of standards and technology nor the national conference on weights and measures has yet adopted testing and certification procedures for that device. The department shall grant or deny authorization within 30 days after the department receives a complete application, including any supplementary information requested by the department.

(4) A commercial weighing or measuring device is no longer considered a type or model certified under sub. (2) if any of the following applies:

(a) Parts or components of a type specifically certified under sub. (2) are replaced with parts or components not certified under sub. (2).

(b) The device is repaired or remanufactured with parts or components that are inconsistent with the manufacturer's metrological design.

(c) The repair or remanufacture of the device causes the device to be in violation of any applicable standard under sub. (1).

(5) No person may misrepresent that a weighing or measuring device is a type or model certified under sub. (2).

(6) No person may cause a weight or measure to be incorrect.

(7) A person who manufactures or distributes a commercial weighing or measuring device violates sub. (6) if all of the following apply:

(a) The person knows or reasonably should know that the weighing or measuring device has a latent or patent defect that may cause an incorrect weight or measure.

(b) The person fails to take steps, which that person is reasonably capable of taking, which would prevent the defect from causing incorrect weights or measures.

(c) The defective weighing or measuring device causes an incorrect weight or measure which is attributable, at least in part, to the defect in the device.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; renam. (intro.) to (1), cr. (2) to (5), Register, December, 1995, No. 480, eff. 1-1-96; cr. (6) and (7), Register, June, 1998, No. 510, eff. 7-1-98, CR 02-141; am. (1), r. and recr. (2) Register August 2003 No. 572, eff. 9-1-03; CR 04-005; am. (1) and (3) (c) Register October 2004 No. 586, eff. 11-1-04; CR 06-028; am. (1) Register November 2006 No. 611, eff. 12-1-06.

Subchapter II — State and Municipal Programs

ATCP 92.04 Municipal program components. A municipal weights and measures program under s. 98.04, Stats., shall inspect and test all the following for compliance with applicable requirements under ch. 98, Stats., this chapter, and chs. ATCP 90 and 91:

- (1) Commodities.
- (2) Liquid measuring devices.
- (3) Scales.
- (4) Weighing, measuring and price verification systems.
- (5) Timing devices.

(6) Linear measuring devices.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.06 Inspection procedures and equipment.

(1) **GENERAL.** Inspectors shall inspect weights and measures according to ch. 98, Stats., this chapter, and chs. ATCP 90 and 91. An inspection, and the equipment used to make it, shall comply with all of the following that apply to that type of inspection:

(a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2006 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2005 edition.

(2) **PRICE VERIFICATION SYSTEMS.** Inspections of price verification systems shall comply with section 7 "test procedures" from the chapter titled "examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2006 edition.

(3) **INSPECTION EQUIPMENT AND STANDARDS.** The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by inspectors. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

Note: The standards incorporated by reference in subs. (1) and (2) are on file with the department and the revisor of statutes. Copies may be purchased from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-754.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005; am. (1) (a) and (2) Register October 2004 No. 586, eff. 11-1-04; CR 06-028; am. (1) (a), (b) and (2) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.08 Inspector hiring and training. (1) HIRING.

A municipality that has a weights and measures program under s. 98.04, Stats., shall hire its inspectors from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency.

Note: See s. 98.04, Stats.

(2) **TRAINING** Inspectors shall complete weights and measures training prescribed by the department. The department may approve training programs offered by other entities, including governmental, private or educational entities. The department shall issue completion certificates to inspectors who complete prescribed training.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03; CR 06-028; am. (1) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.09 Sealing or rejecting weights and measures. An inspector may do any of the following after inspecting weights and measures:

(1) Apply a seal or mark of approval to weights or measures that comply with applicable requirements under ch. 98, Stats., and this chapter.

(2) Mark or tag as "rejected" those weights and measures that fail to comply with applicable requirements under ch. 98, Stats., or this chapter.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.10 Recordkeeping and reporting.

(1) **ANNUAL REPORT.** A municipality that operates a weights and measures program under s. 98.04 (1), Stats., shall submit to the department an annual report by August 1 of each year. The report shall cover the 12 months ending June 30 of that year. The report shall describe, in a form prescribed by the department, the activities and findings of the municipal program during the period covered by the report. The report shall include all of the following:

(a) The names of all supervisory and inspection personnel assigned to perform weights and measures program activities.

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(b) The number and types of devices or equipment inspected, and a summary of compliance data related to those inspections.

(c) The number and types of establishments inspected.

(d) The number and types of commodities inspected, and a summary of compliance data related to those inspections.

(e) A summary of weights and measures prosecutions and enforcement actions.

(f) A summary of training activities in which inspection personnel participated during the period covered by the report.

(g) The estimated annual operating budget for the program.

(h) Other relevant information required by the department.

Note: You may obtain a copy of the Annual Report form for Municipal Departments of Weights and Measures by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(2) RECORDS AND AUDITS. A municipality that operates a weights and measures program under s. 98.04, Stats., shall keep complete and accurate records of its activities and findings under that program. The department may audit and evaluate municipal weights and measures programs, as it deems necessary, to ensure compliance with this chapter and ch. 98, Stats.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter III — Weights and Measures Service Companies

ATCP 92.20 Weights and measures service company; license. (1) LICENSE REQUIRED. Except as provided in sub. (5), no person may install, service, test or calibrate weights and measures without a current annual license from the department, as required under s. 98.18, Stats. A license expires on December 31 of each year. A license is not transferable between persons or business locations.

(2) LICENSE APPLICATION. A person seeking a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

(a) The applicant's correct legal name and every trade name under which the applicant engages in activities under sub. (1).

(b) The address of each business location from which the applicant engages in activities under sub. (1).

(c) The full name, birthdate, and date of certification of each technician who engages in activities under s. ATCP 92.21 on behalf of the applicant.

(d) The fees required under sub. (3).

Note: You may obtain application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(3) LICENSE FEES. A license application under sub. (2) shall include all of the following applicable fees:

(a) A fee of \$250 if the applicant is engaged solely in installing, servicing, testing or calibrating weights and measures that the applicant owns.

(b) Each of the following fees if the applicant installs, services, tests or calibrates weights and measures for others:

1. A basic license fee of \$250.

2. A supplementary fee of \$75 per year for each additional business location, in excess of one location, from which the applicant installs, services, tests or calibrates weights and measures for others.

(c) A surcharge of \$200 if the department determines that, within one year before submitting the license application, the applicant operated without a license in violation of sub. (1).

(d) The late renewal fee provided under s. 93.21 (5), Stats., if the applicant is applying for the renewal of a license that has already expired.

(4) DENYING, SUSPENDING OR REVOKING A LICENSE. The department may deny, suspend or revoke a license under sub. (1) for cause, pursuant to s. 93.06 (7), Stats., and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

(5) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) A person who installs, services, tests or calibrates weights and measures only as an employee of a person licensed under sub. (1).

(b) An inspector or metrologist employed by this state, or by a county or municipality, to test or calibrate weights and measures.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005; am. (3) (d) and r. (3) (d) (note) Register October 2004 No. 586, eff. 11-1-04.

ATCP 92.21 Weights and measures technicians; certification. (1) CERTIFICATION REQUIRED. (a) No weights and measures service company may employ or direct an individual to do any of the following, with respect to a weighing or measuring device, unless the department has certified that individual in a category under sub. (4) that includes that device:

1. Remove an official rejection tag or mark applied under s. ATCP 92.09 (2).

2. Test, calibrate, service or seal a weighing or measuring device.

3. Verify that the weighing or measuring device is correct.

(b) No individual operating a weights and measures service company may engage in any of the activities under par. (a) unless that individual is certified under par. (a).

Note: An individual operating a weights and measures service company must also be licensed under s. ATCP 92.20.

(2) APPLICATION FOR CERTIFICATION. An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual certified under sub. (1). The applicant shall apply on a form provided by the department. An application shall include, for each individual to be certified, all the following:

(a) The individual's full name (first, middle and last) and birth date.

(b) Proof that the individual has met the examination requirement under sub. (3) (a), or is currently certified by another state as provided in sub. (3) (b).

Note: You may obtain certification application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(3) EXAMINATION REQUIRED. (a) The department may not certify an individual under sub. (1) in any category under sub. (4) unless one of the following applies:

1. The individual has passed the central weights and measures association registered service persons examination, or another examination approved by the department, in that category.

2. The individual is currently certified in an equivalent category in another state, and has passed an examination under subd. 1. within 5 years prior to the date on which the department receives the certification application under sub. (2).

(b) An individual, or a weights and measures service company on behalf of an individual, may apply to have the individual take an examination required under par. (a). The applicant shall apply to the department, on a form provided by the department. The application shall include, for each individual, all the following:

1. The individual's full name (first, middle and last) and birth date.

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2. An address and telephone number at which the applicant may be contacted to schedule the examination.

3. A \$25 examination fee. A single fee entitles an individual to take examinations in one or more certification categories on the same day.

Note: You may obtain exam application forms by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection
Weights & Measures Program
P.O. Box 8911
Madison, WI 53708-8911.

(c) Whenever the department receives a complete application under par. (b), the department or its agent shall schedule an examination date with the applicant. The examination date shall be not later than 60 days after the date on which the department receives the complete application, unless the applicant agrees to a later date.

(4) **CERTIFICATION CATEGORY.** The department may certify an individual in one or more of the device categories for which the central weights and measures association provides examinations.

Note: Currently, the Central Weights and Measures Association provides examinations in the following device categories: retail computing scales, medium capacity scales, livestock scales, vehicle scales, railroad track scales, belt conveyor scales, retail motor fuel dispensers, vehicle tank meters, LPG meters, and agricultural chemical and mass flow meters.

(5) **ACTION ON CERTIFICATION.** The department shall grant or deny an application under sub. (2) within 45 days after the examination date under sub. (3) (c) except that, if no examination is required under sub. (3), the department shall grant or deny an application under sub. (2) within 45 days after the department receives a complete application.

(6) **CERTIFICATION EXPIRES.** A certification under sub. (1) expires 5 years after the department issues that certification.

(7) **DENYING, SUSPENDING OR REVOKING A CERTIFICATION.** The department may deny, suspend or revoke a certification under sub. (1) for cause, pursuant to s. 93.06 (7), Stats., and ch. ATCP 1. Cause may include a violation of this chapter or ch. 98, Stats.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03, except (1) eff. 12-31-04.

ATCP 92.22 Weights and measures service companies; test procedures and equipment. (1) **GENERAL.** Whenever a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall do all the following:

(a) Comply with this chapter and ch. 98, Stats.

(b) Comply with applicable requirements contained in the national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2006 edition.

Note: The national institute of standards and technology handbook 44, 2006 edition, is on file with the department and the revisor of statutes. You may purchase copies of this handbook from the U.S. Government Printing Office, Superintendent of Document Sales, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(c) Use equipment and standards that comply with sub. (2).

(d) Affix a security seal to any adjustment mechanism that is designed to be sealed. The security seal shall identify the weights and measures service company and individual technician by name, initials or other unique identifiers.

(e) Prepare a report according to s. ATCP 92.23.

(2) **TEST EQUIPMENT AND STANDARDS.** The department, or a laboratory certified by the national institute of standards and technology, shall inspect, test and approve testing equipment and standards used by weights and measures service companies. The department or certified laboratory shall inspect, test and approve the equipment at least once every 2 years unless the department specifies a different time interval for specific equipment or standards.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03; CR 04-005; am. (1) (b) and (note) Register October 2004 No. 586, eff. 11-1-04; CR 06-028; am. (1) (b) Register November 2006 No. 611, eff. 12-1-06.

ATCP 92.23 Weights and measures service companies; reports. (1) **REPORT REQUIRED.** A weights and measures service company shall prepare a written report whenever it installs, services, tests or calibrates a weighing or measuring device. The weights and measures technician who performs the work on behalf of the service company shall prepare and sign the report. The report shall include all the following:

(a) The name of the device owner or operator, the location of the device, and a uniquely identifying description of the device.

(b) The date on which the service company installed, serviced, tested or calibrated the device.

(c) The nature of the work performed on the device.

(d) A statement that an inspector had marked or sealed the device as "rejected," if that is the case. The report shall include the date of the "rejected" mark or seal, if known. The report shall state whether the service company returned the device to service and, if it did return the device to service, the date on which it did so.

(e) The level of accuracy and correctness found at the beginning of each test and after any adjustments to the device.

(f) A statement clearly indicating whether the device was correct when the service company completed its work. If the service company did not determine whether the device was correct, the report shall indicate that fact.

(g) The name of the service company technician who installed, serviced, tested or calibrated the device.

(2) **GIVING COPIES.** Within 10 days after a weights and measures service company installs, services, tests or calibrates a weighing or measuring device, the service company shall mail or deliver a copy of its report under sub. (1) to each of the following:

(a) The owner or operator of the device.

(b) The department if the service company returns to service a device rejected by the department.

(c) The municipality if the service company returns to service a device rejected by the municipality.

(3) **KEEPING COPIES.** A weights and measures service company shall keep a copy of every report under sub. (1) for at least 2 years after the report is created.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.24 Prohibited practices. No person who sells, installs, services, tests or calibrates a weighing or measuring device may do any of the following:

(1) Cause the device to be incorrect.

(2) Misrepresent that the device is correct.

(3) Misrepresent, directly or by implication, that the person has determined whether the device is correct.

(4) Fail to comply with this chapter or ch. 98, Stats.

(5) Remove any reject tag or mark applied by a state or municipal inspector unless the person first does one of the following:

(a) Adjusts the device to bring it into compliance with this chapter and ch. 98, Stats.

(b) Obtains express authorization from the department or, if the reject tag or mark was applied by a municipal inspector, from that municipality.

History: CR 02-141; cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter IV — Vehicle and Livestock Scales

ATCP 92.30 Vehicle and livestock scales; permits and construction requirements. (1) **PERMIT REQUIRED.** No person may install or relocate a vehicle or livestock scale without a permit from the department. A permit application shall be made in writing on a form provided by the department, and shall include a construction plan. The application and construction plan shall document that the scale complies with the construction standards under sub. (3). The department shall grant or deny a permit

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application within 20 business days after a complete application and construction plan are filed with the department.

(2) **CONSTRUCTION PLAN.** Instead of filing a separate construction plan with each permit application under sub. (1), an applicant may file a master construction plan which applies to 2 or more applications, and may refer to that master plan in each individual application. If a proposed installation or relocation entails any deviation from the master plan, the individual permit application shall clearly describe every deviation.

(3) **CONSTRUCTION STANDARDS.** Except as provided under sub. (6) or (8), every vehicle scale and every livestock scale shall comply with the following construction standards:

(a) **Load-bearing piers.** The main load-bearing piers supporting a scale shall be constructed of reinforced concrete. The main load-bearing piers shall be poured so that they are monolithic with the scale walls, or shall be tied to the walls with 1/2 inch (1.2 cm) reinforcing rods.

(b) **Scale walls.** 1. The walls of every scale shall be constructed of reinforced concrete. The side walls of every scale, other than a livestock scale constructed prior to January 1, 1992, shall be not less than 12 inches (30 cm) thick. The end walls of every scale shall be not less than 16 inches (40 cm) thick, except that end walls of a livestock scale or above-ground scale shall be not less than 12 inches thick.

2. Throughout every scale wall, 1/2 inch (1.2 cm) reinforcing rods shall be placed vertically on no more than 12 inch (30 cm) centers, and horizontally on no more than 18 inch (45 cm) centers.

3. A vehicle scale end wall, if poured with seams or joints, shall be constructed with a step at the outer edge to provide support for the vehicle approach slab unless the approach slab consists of reinforced concrete which is poured monolithically with the end wall and joined to the end wall with reinforcing rods. The step shall extend for the entire length of the end wall, and shall be at least 6 inches (15 cm) wide and 6 inches (15 cm) deep.

(c) **Foundations.** 1. Load-bearing piers and scale walls shall rest on reinforced concrete footings which extend at least 12 inches (30 cm) below the frost line, or on a reinforced concrete base slab not less than 12 inches (30 cm) thick. Footings and slabs which support load-bearing piers or scale walls shall be constructed according to the manufacturer's engineering drawings, and shall be constructed to prevent frost heaving.

2. Scale pit floors and surfaces underlying above-ground vehicle scales shall be constructed of concrete, and shall be constructed so that they are well drained. The concrete floor or surface shall extend the full length and width of the scale. This subdivision does not apply to above-ground scales constructed prior to January 1, 1992.

3. A load-bearing concrete surface underlying an above-ground vehicle scale shall rest on a bed of compacted aggregate which is at least 6 inches (15 cm) thick under every portion of the load-bearing concrete surface, or on an alternative foundation constructed according to the manufacturer's engineering drawings. This subdivision does not apply to above-ground scales installed prior to January 1, 1992.

(d) **Top edge of scale wall.** The top inside edge of every scale wall shall be framed, for its entire length, with a structural steel angle iron coping. The angle iron shall be at least 2 inches (5 cm) by 2 inches (5 cm) by 1/4 inch (.6 cm), and shall be constructed with welded projections so that it can be anchored in the concrete at approximately 4 foot (1.2 meter) intervals.

(e) **Clearances around scales.** 1. In every scale pit, there shall be a clearance of not less than 6 feet (1.8 meters) between the finished floor line of the scale pit and the top edge of the pit coping, or a clearance of not less than 48 inches (1.2 meters) between the finished floor line of the scale pit and the bottom of the load receiving element, the bottom of the beam supporting the load receiving element, or the top of the fully electronic load receiving element. The clearance between the load receiving element and the coping

of every scale pit wall shall be not less than 1/2 inch (1.2 cm) and not more than 3/4 inch (1.8 cm).

2. In every above-ground scale, there shall be a clearance of not less than 6 inches (15 cm) between the top surface of the base slab and the bottom of the load receiving element. This subdivision does not apply to above-ground scales constructed prior to January 1, 1992.

3. In a scale pit containing a lever-type weighing element, there shall be a clearance of at least 27 inches (70 cm) on one side of the transverse lever between the transverse lever and the pit neck wall.

(f) **Mechanical indicating elements; support.** Mechanical indicating elements, including weigh beams and dials, shall be placed on reinforced concrete footings or metal structural members which are sufficiently strong to prevent deflection.

(g) **Scale pit entrance.** Every scale pit shall include an entrance through which persons may enter the scale pit. The entrance shall take one of the following forms:

1. In a scale pit containing a lever-type weighing element, a square opening in the pit neck, with dimensions of at least 22 inches (58 cm) by 22 inches (58 cm).

2. An opening, at least 24 inches (60 cm) in diameter, in the scale platform.

3. An opening in the pit wall, not less than 36 inches (90 cm) wide. The top of the opening shall be no lower than the bottom of the weigh bridge, and the bottom of the opening shall be approximately even with the pit floor.

(h) **Approach surfaces.** Entry and exit approaches to a vehicle scale shall be at least as wide as the scale platform and at least 1/2 the length of the scale platform. Where it meets the end wall of a scale, each approach shall be supported on a step in the top of the end wall as provided under par. (b). Extending for the first 10 feet from the scale, each approach surface shall be on the same plane with the scale platform and shall be constructed of reinforced concrete, compacted asphaltic materials, steel grating or structural steel plate of sufficient strength to withstand all loads equal to the concentrated load capacity of the scale. The remainder of the approach surface shall be constructed of a durable material and shall have a slope of not more than 1:12 (vertical rise/horizontal run). The approach shall be constructed and maintained to drain away from the scale, to provide easy vehicle access to the scale, and to provide easy access by the department or a scale service company to test compliance with s. ATCP 92.02 (1).

(i) **Livestock scales: test weight unloading platform.** A concrete test weight unloading platform shall be constructed and maintained next to every livestock scale. The test weight unloading platform shall be at least 10 feet (3 meters) long and 8 feet (2.4 meters) wide. The test weight unloading platform shall be on the same level and plane as the scale platform. The test weight unloading platform shall be situated so that a test truck can easily lower test weights onto the test weight unloading platform, and so that test weights can easily be moved from the test weight unloading platform to the scale platform.

(4) **TOLERANCES.** Vehicle and livestock scales installed or relocated under sub. (1) shall comply with acceptance tolerances under s. ATCP 92.02 throughout the period starting with the first date of use and ending 90 days after the department first receives notice under sub. (5) that the scale is in use. After that initial period, the scale shall comply with applicable tolerances under s. ATCP 92.02.

(5) **REPORT OF INSTALLATION OR RELOCATION.** If a person installs or relocates a vehicle or livestock scale, that person shall report the completed installation or relocation to the department within 5 days after the installation or relocation is completed. The report shall be filed in writing and shall include all of the following:

(a) The department permit number for the scale installation or relocation permit issued under sub. (1).

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(b) The date of installation or relocation, and the location at which the scale was installed or to which the scale was relocated.

(c) The name of the scale manufacturer, the brand name of the scale, and the model or serial number of the scale.

(d) The capacity of the scale.

(e) The sectional capacity of the scale if the scale was constructed before January 1, 1989, or the concentrated load capacity of the scale if the scale was manufactured on or after January 1, 1989.

(f) A scale test report showing that the scale was tested and correct before it was put into use. The scale test shall comply with s. 98.25, Stats.

(g) A statement indicating whether the scale was sold in connection with the installation or relocation. If the scale was sold, the report shall include the name and address of the buyer and seller, and shall indicate the date of sale.

(6) PERMIT AUTHORIZING CONSTRUCTION VARIANCES. The department may, in its sole discretion, grant a variance from a construction requirement under sub. (3) if the department determines that the variance is justified by special circumstances. A person requesting a variance under this subsection shall submit an application and specific justification to the department in writing. The department may impose any conditions on the variance, including alternative construction requirements, which it considers necessary.

(7) REJECTION NOTICE. A department weights and measures inspector or a municipal weights and measures sealer may issue a rejection notice under s. 98.05 (2), Stats., prohibiting the commercial use of a vehicle or livestock scale which does not comply with this section.

(8) EXEMPTIONS. Subsections (1) to (7) do not apply to any of the following:

(a) A vehicle scale that is used for less than one year at the same location.

(b) Portable vehicle scales installed with all of the following:

1. Durable load bearing foundations that comply with the vehicle scale manufacturer's engineering drawings and specifications.

2. Durable vehicle approaches that provide adequate drainage away from the scale and easy access for the department or a scale service company to test compliance with s. ATCP 92.02 (1).

3. Durable approach bulkheads that provide a barrier between the scale's weighing element, approach material and run off.

(c) A vehicle scale used exclusively for highway construction if that use is supervised by the state of Wisconsin department of transportation.

Note: Scales identified under sub. (8) are not exempt from s. ATCP 92.02, from licensing requirements under s. 98.16, Stats., or from the annual testing requirement under s. 98.25, Stats.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. (1), (3) (b) 3., (c) 1. and 3., (e) 1. and 3., and (h), r. and recr. (8), Register, December, 1995, No. 480, eff. 1-1-96. CR 02-141: renum. from ATCP 92.03 Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.31 Vehicle scale license. (1) LICENSE REQUIRED No person may operate a vehicle scale without a license from the department, as provided under s. 98.16, Stats. A separate license is required for each scale. A license is not transferable between persons, scales or scale locations. A license expires on March 31 annually.

(2) LICENSE APPLICATION A person applying for a license under sub. (1) shall apply on a form provided by the department. The application shall include all the following:

(a) The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle scale.

(b) The nature and location of the vehicle scale.

(c) The fees required under sub. (3).

(d) Other information that the department reasonably requires for licensing purposes.

(3) LICENSE FEES. A person applying for a vehicle scale license under sub. (1) shall pay an annual license fee of \$100 per vehicle scale. The applicant shall also pay a license fee surcharge under s. 98.16 (2) (c), Stats., if that surcharge applies.

Note: Under s. 98.16 (2) (c), Stats., a license applicant must pay a surcharge of \$200 if the department finds that the applicant operated without a required license within one year prior to submitting the license application. Other civil and criminal penalties may also apply.

(4) ACTION ON LICENSE APPLICATION The department shall grant or deny a license application under sub. (2) within 20 business days after the department receives a complete application.

(5) EXEMPTION Subsection (1) does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license under sub. (1).

History: CR 02-141: cr. Register August 2003 No. 572, eff. 9-1-03.

Subchapter V — Liquefied Petroleum Gas

ATCP 92.40 Thermometer and thermometer well specifications. (1) Every meter used for the liquid measurement of liquefied petroleum gas sold or delivered to consumers shall be equipped with a thermometer well. The well shall extend into the flowing liquid either in the liquid chamber of the meter or in the meter inlet or discharge line immediately adjacent to the meter.

(2) The thermometer well shall be constructed so as to permit insertion of a mercury in glass Fahrenheit thermometer which has one-degree graduations, spaced at least 0.04 inch apart.

History: CR 02-141: renum. from ATCP 92.05 (1) Register August 2003 No. 572, eff. 9-1-03.

ATCP 92.41 Manual volume correction. When liquefied petroleum gas is sold or delivered to consumers by liquid measurement through use of a liquid meter that is not equipped with an automatic temperature compensating mechanism, then its volume shall be corrected to a temperature of 60° F. through use of the volume correction factor table set forth in this paragraph. To correct measured volume to volume at 60° F., determine the temperature of the liquid after midpoint in the delivery from the thermometer referred to in s. ATCP 92.40, find the observed temperature in the temperature column in the table, refer to the appropriate column for the product delivered, read the volume conversion factor opposite the observed temperature, and multiply the volume delivered as indicated by the meter by the factor to obtain the volume at 60° F.

CORRECTION FACTOR TABLE

Temperature	Propane	Butane
-20	1.115	1.080
-19	1.113	1.079
-18	1.112	1.078
-17	1.111	1.077
-16	1.110	1.076
-15	1.109	1.075
-14	1.108	1.074
-13	1.107	1.073
-12	1.105	1.072
-11	1.103	1.071
-10	1.102	1.071

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Temperature	Propane	Butane	Temperature	Propane	Butane
-9	1.101	1.070	40	1.032	1.021
-8	1.100	1.069	41	1.030	1.020
-7	1.098	1.068	42	1.029	1.019
-6	1.096	1.067	43	1.027	1.018
-5	1.094	1.066	44	1.026	1.017
-4	1.092	1.065	45	1.024	1.016
-3	1.091	1.065	46	1.022	1.015
-2	1.090	1.064	47	1.020	1.014
-1	1.089	1.063	48	1.019	1.013
0	1.088	1.062	49	1.017	1.012
1	1.087	1.061	50	1.016	1.011
2	1.086	1.060	51	1.014	1.010
3	1.084	1.059	52	1.013	1.009
4	1.083	1.058	53	1.011	1.007
5	1.081	1.057	54	1.010	1.006
6	1.080	1.055	55	1.008	1.005
7	1.079	1.054	56	1.007	1.004
8	1.078	1.053	57	1.005	1.003
9	1.076	1.052	58	1.003	1.002
10	1.075	1.051	59	1.001	1.001
11	1.073	1.050	60	1.000	1.000
12	1.072	1.049	61	.998	.999
13	1.071	1.048	62	.997	.998
14	1.070	1.047	63	.995	.997
15	1.068	1.046	64	.993	.996
16	1.067	1.045	65	.991	.994
17	1.066	1.044	66	.990	.993
18	1.065	1.043	67	.988	.992
19	1.063	1.042	68	.986	.991
20	1.062	1.041	69	.984	.990
21	1.060	1.040	70	.983	.989
22	1.059	1.039	71	.981	.988
23	1.057	1.038	72	.980	.987
24	1.056	1.037	73	.978	.986
25	1.054	1.036	74	.976	.985
26	1.053	1.036	75	.974	.983
27	1.051	1.035	76	.973	.982
28	1.050	1.034	77	.971	.981
29	1.048	1.033	78	.970	.980
30	1.047	1.032	79	.968	.979
31	1.045	1.031	80	.967	.978
32	1.044	1.030	81	.965	.977
33	1.042	1.029	82	.963	.976
34	1.041	1.028	83	.961	.975
35	1.039	1.026	84	.959	.974
36	1.038	1.025	85	.957	.972
37	1.036	1.024	86	.956	.971
38	1.035	1.023	87	.954	.970
39	1.033	1.022	88	.952	.969

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Temperature	Propane	Butane
89950	.968
90949	.967
91947	.966
92945	.965
93943	.963
94 .....	.941	.962
95 .....	.939	.961
96 .....	.938	.960
97 .....	.936	.958
98 .....	.934	.957
99 .....	.932	.956
100 .....	.930	.955

History: CR 02-141: renum. from ATCP 92.05 (2) Register August 2003 No. 572, eff. 9-1-03; correction made under s. 13.93 (2m) (b) 7., Stats., Register August 2003 No. 572.

ATCP 92.42 Sales tickets. (1) When delivery of liquefied petroleum gas is made through a liquid meter equipped with an automatic temperature compensating mechanism, the word "gallon" or any abbreviation thereof shall not appear alone on the

sales ticket but shall be immediately preceded or followed by the words "automatically corrected to 60° F." in the same size and style of type.

(2) When delivery of liquefied petroleum gas is made through a liquid meter not equipped with an automatic temperature compensating mechanism, the sales ticket shall show the delivered gallons, the temperature of the liquid at the time of delivery, the volume correction factor, and the corrected gallonage. Wherever a statement of corrected gallonage appears on the sales ticket the words "corrected to 60° F." shall appear immediately adjacent thereto.

History: CR 02-141: renum. from ATCP 92.05 (3) Register August 2003 No. 572, eff. 9-1-03

ATCP 92.43 Registered meters. The owner of a meter used to determine the liquid measure of liquefied petroleum gas sold or delivered to consumers by liquid measure shall register that meter with the department, and shall pay to the department a one-time registration fee of \$25. The owner shall register each meter and pay the fee for that meter within 60 days after July 1, 1999, or within 60 days after the owner acquires that meter, whichever occurs later. A registration is not transferable between owners.

History: CR 02-141: renum. from ATCP 92.05 (4) Register August 2003 No. 572, eff. 9-1-03.

EXHIBIT G

