

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Department of Labor and Training

DIVISION: Occupational Safety

RULE IDENTIFIER: 260-RICR-30-10-3

REGULATION TITLE: Weights and Measures

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date of: July 13, 2018.

Comment period ends: August 13, 2018.

SUMMARY OF PROPOSED RULE: To provide information regarding the administration of certification, revocation, and fee schedules for weights and measures.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by August 13, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920

Email Address: sean.fontes@dlt.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI, 02920.

PUBLIC HEARING INFORMATION:

Public Hearing Date & Time: August 3, 2018 @ 2:00 PM

Public Hearing Location: 1511 Pontiac Ave., Bldg. 73-1, Cranston, Rhode Island 02920

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed or any other accommodation to ensure equal participation, please call 462-8897 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

FOR FUTHER INFORMATION CONTACT:

Sean M. Fontes, Executive Counsel, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, 462-8890, sean.fontes@dlt.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

It is beneficial for the public to have standards for weights and measure and to be fully informed of them.

Authority for This Rulemaking: 47-1-1.1 and 47-1-2

Regulatory Findings:

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Adoption:

Department of Labor and Training proposes to adopt the proposed rule as follows below:

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TITLE 260 - DEPARTMENT OF LABOR AND TRAINING

CHAPTER 30 - WORKFORCE REGULATION AND SAFETY

SUBCHAPTER 10 - OCCUPATIONAL SAFETY

PART 3 - Weights and Measures

3.1 Authority

This regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws §§ 47-1-1.1 and 47-1-2.

3.2 Purpose

To provide information regarding the administration of certification, revocation, and fee schedules for weights and measures.

3.3 Process for Certification

- A. An Introduction to Weights and Measures session shall be scheduled annually, prior to April August of the year, by the certified metrologist or by an authorized agent of the Director of Labor, to provide basic information for any person considering an appointment to the municipal sealer position. The session will cover the following agenda:
1. Applicants will view the hands-on training video demonstrating the basic procedures used in the testing of scales and gasoline measuring devices.
 2. A general question and answer session will be conducted with the applicants.
 3. Attendance to this introduction session is mandatory. Upon completion of this session, appointees shall participate in the training requirements of either §§ 3.3(B) or (C) of this Part ~~Rule No. 2 or Rule No. 3~~, to fulfill the certification requirements.
- B. To attain certified status, all new appointees to the local sealer of weights and measures position are required to participate in a Technical Course in the field of weights and measures. When there are more than seven (7) new appointees, a 3-day training course will be conducted at the Department of Labor, by a professional agency. Application cost shall be ~~paid~~ paid by the municipalities/participants of the 3-day training. The course agenda will be as follows:
1. One half day - Fundamental Considerations, General Code of Handbook 44
 2. One half day - Rhode Island General Laws pertaining to the municipal sealer of weights and measures.

3. One full day "General Application of the Scale Code"
4. One full day "General Application of the Gasoline Measuring Device Code"

C. Where there is a new appointee, or when a Sealer is not available to participate in the 3-day Technical Course in § 3.3(B) of this Part ~~Rule No. 2~~, the following alternate course outlined below must be completed in order to fulfill the certificate requirements:-

1. Engage in a program of self-study of the National Institute of Standards and Technology, ("NIST"), Handbook 44, § 2.20, Scale Code and § 3, 3.30, Liquid Measure Devices (hereafter "NIST Handbook 44 section content areas").
 - a. Participants must study the NIST Handbook 44 section content areas as referenced herein.
 - b. The cost, if any, for participation in both NIST Handbook 44 section content areas shall be paid borne by the municipality/participants.
2. The Department of Labor and Training shall issue a certificate of completion to participants upon completion of the NIST Handbook 44 content areas and the following:
 - a. Satisfactory demonstration of his/her field abilities to an authorized sealer of the Department of Labor and Training in the NIST Handbook 44 course content areas completed over a ninety (90) day period which shall include:
 - (1) Ten (10) hours of on-the-job training in Scale Code inspection under the direct supervision of a Department of Labor and Training authorized and appointed sealer. The Department of Labor and Training authorized and appointed sealer shall keep a log book of the participant's on-the job training, and
 - (2) Thirty (30) hours of on-the-job training in liquid measure device inspection under the direct supervision of a Department of Labor and Training authorized and appointed sealer. The Department of Labor and Training authorized and appointed sealer shall keep a log book of the participant's on-the-job training.
 - b. Successful completion, with at least a score of 70%, on a written examination covering the NIST Handbook 44 section content areas and administered by the Department of Labor and Training. Participants must make request, in writing, to the Department of Labor and Training to test within thirty (30) days of completing their on-the-job training requirements.

D. Participants who do not receive a passing score on the written examination may retest after thirty (30) days of receiving notice of unsuccessful completion of the

written examination by making request, in writing, to the Department of Labor and Training to retest.

- E. Sealers having completed the course criteria of either §§ 3.3(B) or (C) of this Part Rule No. 2 or Rule No. 3, thereby rendering them "Certified", shall participate in technical courses relating to weights and measures, which may be offered annually by the Department of Labor. Course criteria shall be based on changes to the Handbooks adopted by this state and/or by changes made to the R. I. Gen. Laws~~Rhode Island General Laws~~. At no time shall these courses require more than 35 hours of annual training. Certificates will be automatically renewed on June 30 of each year unless an annual training is scheduled. If an annual training is scheduled, certificate renewal will be based upon successful completion of the course.
- F. Any person who has been appointed by a municipality to the sealer position, and has met the mandated requirements for certification shall be able to continue such certification status ~~(RIGL 47-1-1.1)~~, if he or she continues to participate in the annual training as covered by § 3.3(E) of this Part Rule No. 4, and shall be considered for assignments in other municipalities where said municipalities are without an active certified sealer. Sealers so assigned shall be responsible for all costs incurred while performing these sealer duties, and shall be subject to § 3.5(B) of this Part Rule No. 7.

3.4 Reporting

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- A. Assigned sealers shall submit to the Director of Labor or his/her authorized agent, a quarterly report for all testing performed during said quarter with the first report due on April 1, 1996 and the ensuing quarterly reports to be submitted on July 1, October 1, January 1 of each calendar year. Reports shall include the following:
1. Number of tests performed, during the reporting quarter, in each sealer responsible area as mandated in R.I. Gen. Laws Chapters 47-2, 47-6, and 47-8~~of the General Law~~
 2. The test numbers reported in § 3.4(A)(1) of this Part~~no. 4~~ shall include the name and address of the company owning the devices tested and the date of said testing and sealing;
 3. Submission of actual copies of the test reports used when performing sealer duties shall be provided when requested by the Director or his/her authorized agent;
 4. The Director or his/her authorized agent shall have the authority to request for review the sealer receipt books to verify the fees charged for duties performed while under assignment by the Director of Labor.

3.5 Non-Compliance and Revocation of Certification

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- A.H. Local Sealers of Weights and Measures not in compliance with R.I. Gen. Laws § 47-1-1.1~~of the General Laws~~ shall be in direct violation of the mandate. Sealers, without having attained certified status, shall not be permitted to perform the

duties of a sealer of weights and measures as described in R.I. Gen. Laws Chapters 47-2, 47-6, 47-8, and 47-12, ~~of the General Laws~~. Notification of same shall be forwarded to the appointing authority in the town or city which the sealer represents by the certified metrologist, the Director of Labor, or his/her authorized agent.

B.4. Upon recommendation from the certified metrologist or the Director's authorized agent, the Director of Labor shall have the authority, after notice and hearing, to revoke the certificate of a sealer of weights and measures for cause as indicated herewith:

1. Revocation for Cause:
 - a. Failure to participate in the technical training as outlined in § 3.3(E) of this Part Rule No. 4.
 - b. Failure to inspect the weights and measures apparatus in a timely fashion, as required by General Law. Sealers are responsible to perform all duties regarding inspections with limits being set only by the testing equipment available to him/her.
 - c. Sealing of weights and measures apparatus without first performing the required test procedures.
2. Failure to comply with the rate/revenue schedule for testing and sealing as mandated in R.I. Gen. Laws §§ 47-1-5.1 and 47-2-7 and Chapters 47-29 and 47-8, ~~1 of Rhode Island General Law.~~
3. Conviction of a felony.

~~K. The Director of Labor is mandated by Section 1-2 of Chapter 47-1 of the General Laws of Rhode Island as amended by Public Laws of 1988, to promulgate rules and regulations, not inconsistent with law to carry into effect the enforcement and administration of the provisions of this Chapter.~~
3.6 Fee Schedule for Services

Pursuant to R.I. Gen. Laws § 47-1-2~~Section 1-2 of Chapter 47-1 of the General Laws of Rhode Island,~~ the following fee schedule for services rendered is hereby issued for the enforcement and administration: ~~of Title 47-1-2 titled Custody and maintenance of state standards — Testing of standards.~~

Category I Rhode Island Certified Sealers		
Category II Private Sector		
Category	Type of Weighing/Measuring Apparatus	Fee Schedule
	Field Weight Set:	

I	Class F Tolerance	\$25.00
II	Class F Tolerance	\$45.00
	5-Gallon Test Measure:	
I	Class F Tolerance	no fee
II	Class F Tolerance	\$25.00
	Weights:	
	Less than 3 kg	
I	Class F Tolerance	no fee
II	Class F Tolerance	\$10.00 ea
	Over 3 kg:	
I	Class F Tolerance	no fee
II	Class F Tolerance	\$20.00 ea

3.7 Testing and Sealing of Oil Delivery Trucks

- A. The capacity of every tank vehicle used and each compartment thereof used for the transportation over the public highways of this state of fuels, such as gasoline and other volatile and inflammable liquids including oils used for heating purposes, when used as a measuring device shall be tested and sealed at least once every three (3) years. The capacity, when so determined, shall be plainly printed upon the right-hand side of the vehicle tank dome in letters and numerals not less than one inch in height. The meters of the vehicle tanks and the meters of home delivery truck vehicles and loading rack meters shall be tested and sealed at least once a year.
- B. The Director of Labor and Training shall have the authority to certify all dealers or repairmen meeting the criteria established under this Part to enforce the

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provisions of R.I. Gen. Laws § 47-8-5, and supply the state of Rhode Island seal for the prescribed fee as set forth in § 3.6 of this Part.

C. The following criteria shall be met by any and all dealers or repairmen prior to being certified to perform the testing and sealing of fuel/oil delivery trucks:

1. Must have liquid testing equipment certified by National Institute of Standards and Technology (NIST) Handbook 44.
2. Equipment shall be tested and certified as mandated in the national weights and measure standard every five (5) years.