

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 16 AGRICULTURAL WEIGHTS AND MEASURES
PART 5 BONDING AND REGISTRATION OF SERVICE TECHNICIANS AND SERVICE
ESTABLISHMENTS FOR COMMERCIAL WEIGHING OR MEASURING DEVICES

21.16.5.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/97; 21.16.5.1 NMAC - Rn, 21 NMAC 16.5.1 1/31/07, A, 5/29/09]
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21.16.5.2 SCOPE: All parties involved in the servicing or use of commercial weighing or measuring devices.
[7/1/97; 21.16.5.2 NMAC - Rn, 21 NMAC 16.5.2, 01/31/07]

21.16.5.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Weights and Measures Law, Chapter 57, Article 17, Sections 1 through 19, New Mexico Statutes Annotated, 1978 Compilation.
[7/1/97; 21.16.5.3 NMAC - Rn, 21 NMAC 16.5.3, 01/31/07]

21.16.5.4 DURATION: Permanent
[7/1/97; 21.16.5.4 NMAC - Rn, 21 NMAC 16.5.4, 01/31/07]

21.16.5.5 EFFECTIVE DATE: July 1, 1997
[7/1/97; 21.16.5.5 NMAC - Rn, 21 NMAC 16.5.5, 01/31/07]

21.16.5.6 OBJECTIVE: This part provides for the bonding and registration of service technicians and service establishments for commercial weighing or measuring devices.
[7/1/97; 21.16.5.6 NMAC - Rn, 21 NMAC 16.5.6, 01/31/07]

21.16.5.7 DEFINITIONS:

A. “Commercial weighing or measuring device” means any device used or employed in establishing the quantity, weight, count, or size of products involving a monetary transaction or in computing any basic charge or payment for services rendered on the basis of weight or measure.

B. “Department” means the New Mexico department of agriculture.

C. “Director” means the director of the New Mexico department of agriculture.

D. “Full service establishment” means any person, firm, or company which for the purpose of direct or indirect benefit installs, services, repairs, or reconditions commercial weighing or measuring devices. (bond required)

E. “Limited service establishment” means any person, firm, or company which installs, services, repairs, or reconditions commercial weighing or measuring devices solely under its ownership. (no bond required)

F. “Service technician” means any individual employed by a full or limited service establishment who installs, services, repairs, or reconditions commercial weighing or measuring devices.

[7/1/97; 21.16.5.7 NMAC - Rn, 21 NMAC 16.5.7, 01/31/07]

21.16.5.8 [RESERVED]

21.16.5.9 REGISTRATION:

A. Prior to installing, servicing, repairing or reconditioning any commercial weighing or measuring device in the state of New Mexico, a service establishment and each service technician employed by, or who is a part of, the service establishment shall be registered with the department. Application for registration shall be on a form supplied by the department with said form duly signed and witnessed. By applying for registration, the principal officer of the service establishment certifies that each service technician employed by the service establishment is fully competent to install, service, repair or recondition the class of devices for which registration is applied; has in their possession or available for use the required certified test standards and all necessary testing equipment, and required reference materials; and has full knowledge of all applicable laws, rules, and regulations. At the request of the department, an applicant shall submit appropriate evidence of qualifications.

B. This part shall not preclude or limit the right and privilege of any individual to install, service, repair, or recondition a commercial device owned by him or his employer. However, without registration, such individual is not permitted to remove an official out-of-order tag or place a device into commercial service. [7/1/97; 21.16.5.9 NMAC - Rn, 21 NMAC 16.5.9, 01/31/07]

21.16.5.10 ANNUAL REGISTRATION FEES: A complete registration will include payment of applicable fees for the registrant and all service technicians as established by an external policy memorandum. [7/1/97; 21.16.5.10 NMAC - Rn & A, 21 NMAC 16.5.10, 01/31/07]

21.16.5.11 BOND REQUIRED: With the application for full service registration, each service establishment shall furnish a one thousand dollar (\$1,000) surety bond payable to the state of New Mexico, or other proof of financial responsibility as may be prescribed by the director, for faithful performance of duty. A bond or other proof of financial responsibility shall apply to each registered service technician employed by the registered service establishment. The bond or other proof of financial responsibility shall be in a form prescribed by the director. [7/1/97; 21.16.5.11 NMAC - Rn, 21 NMAC 16.5.11, 01/31/07]

21.16.5.12 REGISTRATION CERTIFICATE: Upon receipt and acceptance of a properly executed application, the required bond (full service only) and calibration certificate, a "registration certificate" shall be issued for a period not to exceed one (1) year. Registration certificates are non-transferable. [7/1/97; 21.16.5.12 NMAC - Rn, 21 NMAC 16.5.12, 01/31/07]

21.16.5.13 AUTHORITY AND RESPONSIBILITIES OF A REGISTRANT:

- A. A registered service technician or registered service establishment shall have the authority to:
- (1) remove official tested and approved, out-of-order, and not sealed - not legal for trade stickers or tags;
 - (2) break seals on adjustment mechanisms;
 - (3) place into commercial service a device that has been officially rejected;
 - (4) place into commercial service a new or used device.
- B. Prior to placing a device into commercial service, it shall be the responsibility of the registered service technician to:
- (1) install, service, repair or recondition a commercial device in such a manner that the device will comply with applicable requirements set forth in *national institute of standards and technology (NIST) handbook 44*, as revised, and the weights and measures law and associated rules;
 - (2) remove from a commercial device being installed, serviced, repaired, or reconditioned all existing tested and approved, out-of-order or not sealed - not legal for trade stickers or tags;
 - (3) seal all adjustment mechanisms with an appropriate seal;
 - (4) affix to a commercial device installed, serviced, repaired, or reconditioned, a clearly visible tag or sticker containing the registered service establishment name or registration number and date on which installation, service, repair or recondition was performed.
- [7/1/97; 21.16.5.13 NMAC - Rn, 21 NMAC 16.5.13, 01/31/07]

21.16.5.14 PLACE-IN-SERVICE REPORT:

- A. Within five (5) calendar days after a new or used device is installed, or a device that has been officially rejected has been repaired, the original of the properly executed place-in-service report shall be sent to the department. The duplicate copy of the report shall be retained by the registered service establishment and the triplicate copy of the report shall be given to the owner or operator of the device.
- B. A place-in-service report for the types of devices specified below shall be accompanied by the registered service establishment's test report which shows the device was tested and performing within applicable tolerances at the time the device was placed into service:
- (1) For scales above two thousand (2,000) pounds or one thousand (1,000) kilograms capacity, a test report shall be required which shows that certified test weights were applied to test the scale to used capacity or ten thousand (10,000) pounds or five thousand (5,000) kilograms whichever is less.
 - (2) For meters (liquid measuring devices) with a capacity of more than twenty (20) gallons or seventy five (75) liters per minute, a test report shall be required which shows that a volumetric prover of sufficient capacity to receive a test draft as specified in *NIST handbook 44* for the device under test was used to test and calibrate the

device.

(3) For devices other than those described above, test reports may be required by the director if it is determined at his discretion that test reports are in the best interest of all concerned.

[7/1/97; 21.16.5.14 NMAC - Rn, 21 NMAC 16.5.14; A, 01/31/07; A, 08/01/11]

21.16.5.15 STANDARDS AND TESTING EQUIPMENT:

A. A service technician or service establishment must possess or have available sufficient certified test standards to test in accordance with *NIST handbook 44* requirements the class of devices for which registration is applied. Prior to registration, and at least annually thereafter, all standards and testing equipment used by the registered service technician or registered service establishment shall be examined by the department or another approved laboratory and a calibration certificate issued for all standards and testing equipment found to be acceptable. A copy of the calibration certificate for all standards and testing equipment used by the registered service technician or registered service establishment shall accompany the registration application.

B. A registered service technician or registered service establishment shall not use in installing, servicing, repairing, or reconditioning a commercial device any standards or testing equipment that has not been certified.

[7/1/97; 21.16.5.15 NMAC - Rn, 21 NMAC 16.5.15, 01/31/07]

21.16.5.16 REVOCATION OF REGISTRATION CERTIFICATE: The director may suspend or revoke a registration certificate in accordance with the procedures set forth in New Mexico department of agriculture administrative procedures and remedies for enforcement actions internal policy.

[7/1/97; 21.16.5.16 NMAC - Rn, 21 NMAC 16.5.16, 01/31/07]

21.16.5.17 LIST OF REGISTERED SERVICE ESTABLISHMENTS: The department shall maintain and supply upon request a list of the registered service establishments.

[7/1/97; 21.16.5.17 NMAC - Rn, 21 NMAC 16.5.17, 01/31/07]

HISTORY OF 21.16.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule No. DOA 74-1, Regulatory Order No. 6, Service Establishment Regulations, filed 1/30/74.

NMDA Rule No. DOA 77-2, Regulatory Order No. 12, Service Establishment Regulations, filed 2/9/77.

NMDA Rule No. 95-8, Bonding and Registration of Service Technicians and Service Establishments for Commercial Weighing and Measuring Devices, filed 11/14/95.

History of Repealed Material: [RESERVED]