NEBRASKA ADMINISTRATIVE CODE

TITLE 27, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

DEPARTMENT OF AGRICULTURE

VOLUNTARY REGISTRATION OF SALES AND REPAIR PERSONNEL REGULATIONS

December, 2016

NEBRASKA ADMINISTRATIVE CODE

TITLE 27 - DEPARTMENT OF AGRICULTURE

CHAPTER 1 - VOLUNTARY REGISTRATION OF SALES AND REPAIR PERSONNEL REGULATIONS

NUMERICAL TABLE OF CONTENTS

CODE

SUBJECT STATUTORY AUTHORITY SECTION

Definitions §§89-182.01 to 89-1,103 001

Reciprocity §§89-182.01 to 89-1,103 002

Applying for Registration §§89-182.01 to 89-1,103 003

Qualification Testing §§89-182.01 to 89-1,103 004

Registration §§89-182.01 to 89-1,103 005

Certification of Registration §§89-182.01 to 89-1,103 006

Privileges of Registration §§89-182.01 to 89-1,103 007

Responsibilities of Registration §§89-182.01 to 89-1,103 008

Placed in Service Report §§89-182.01 to 89-1,103 009

Standards and Testing Equipment §§89-182.01 to 89-1,103 010

Probation, Suspension or Revocation §§89-182.01 to 89-1,103 011

Of Certificate of Registration

Annotation §§89-182.01 to 89-1,103 012

NEBRASKA ADMINISTRATIVE CODE

TITLE 27 – DEPARTMENT OF AGRICULTURE~~, DIVISION OF WEIGHTS~~

~~AND MEASURES~~

CHAPTER 1 -VOLUNTARY REGISTRATION OF SALES AND REPAIR PERSONNEL REGULATIONS ~~Servicemen And Service Agencies For Commercial Weighing And Measuring Devices~~

~~001 Policy. It shall be the policy of the Director of Agriculture to accept voluntary registration of individuals and agencies that provide acceptable evidence that they are fully qualified to install, service, repair, or recondition a commercial weighing or measuring device, have a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations and have possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency not registered with the Director to install, service, repair, or recondition a commercial weighing or measuring device~~.

~~002~~ 001 Definitions. In addition to the definitions found in Neb. Rev. Stat. §89-183 the following definitions shall apply to these regulations.

~~002.01~~ 001.01 ~~Director shall mean the Director of Agriculture.~~ Act shall mean the Weights and Measures Act, Neb. Rev. Stat. §§89-182.01 to 89-1,103 including the handbooks adopted by reference in Neb. Rev. Stat. §89-186.

001.02 Applicant shall mean a person seeking registration as a sales and repair personnel or registration as a sales and repair business.

001.03 Employee sales and repair personnel shall mean an individual working as a sales and repair personnel for a registered sales and repair business.

001.04 Registered person shall mean a registered sales and repair personnel, a registered sales and repair business or an employee sales and repair personnel who has met the requirements of 27 NAC 1-004 and has been reported to the Director as set out in 27 NAC 1-005 by the sales and repair business.

~~002.02~~ 001.05 Registered sales and repair personnel ~~serviceman~~ shall mean any individual who for hire, award, commission, or any other payment of any kind, sells, installs, services, repairs, or reconditions a commercial weighing ~~or~~ and measuring device, and who voluntarily registers ~~himself~~ as such with the Director.

~~002.03~~ 001.06 Registered sales and repair ~~service agency~~ business shall mean any person employing employee sales and repair personnel. ~~agency, firm, partnership, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which voluntarily registers itself as such with the Director. Under agency registration, identification of individual servicemen shall be required.~~

~~002.04~~ ~~Individual serviceman shall mean a serviceman working for a service agency who is identified on the agency's application for registration and whose competence has been certified to by such agency.~~.

~~002.05 The term commercial weighing and measuring device shall be construed to include any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.~~

~~003~~ 002 Reciprocity. The Director may enter into ~~an informal~~ a reciprocal agreement with any other State to provide registration standards for applicants. The standards shall be based on Nebraska requirements. ~~or States that has or have similar voluntary registration policies. Under such agreement, the registered servicemen and the registered service agencies of the States party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all States party to such agreement.~~

~~004~~ 003 ~~Application~~ Applying for ~~Voluntary~~ Registration. ~~A serviceman or service agency~~ To apply for voluntary registration, a sales and repair personnel or a sales and repair business shall ~~may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the Director~~ annually certify that the applicant meets the requirements of 27 NAC 1-008 and~~. Said form, duly signed and verified, shall include certification by the applicant that:~~

~~004.01 The serviceman or individual servicemen working for a registered service agency are fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered,~~

~~004.02 The~~ ~~serviceman or service agency~~ has in possession, or available for use, all ~~necessary~~ testing equipment and standards to meet the requirements of 27 NAC 1-010.~~, and~~

~~004.03 The serviceman or individual servicemen working for a registered service agency have full knowledge of all appropriate weights and measures laws, orders, rules, and regulations. An applicant also shall submit appropriate evidence or references as to qualifications.~~

004 Qualification Testing. Prior to initial registration, and at least every three years thereafter, a sales and repair personnel or employee sales and repair personnel shall be required to pass an examination established by the Director to determine that the person taking the test is qualified to sell, install, service, repair or recondition the devices for which competence is to be registered. The examination shall assess knowledge of provisions of the Act and the regulations adopted pursuant to the Act.

005 Registration ~~Fees~~.

005.01 An annual fee of forty-five dollars ($45.00) shall be assessed for all registered sales and repair personnel. Sales and Repair businesses shall pay a fee equal to forty-five dollars ($45.00) times the number of employee sales and repair personnel working for the business. If at any time during the year for which the sales and repair business is registered the business employs any additional employee sales and repair personnel, the business shall pay an additional forty-five dollar ($45.00) fee per additional employee sales and repair personnel.

005.02 The annual registration fee shall be due on January 31 of each year. Persons seeking registration at any time during the year shall pay the entire fee. ~~Each registered serviceman and registered service agency shall pay to the Director an annual registration fee to cover the costs of administering the plan. The fee for each registered serviceman shall be forty-five dollars ($45.00). The fee for each registered service agency shall be an amount equal to forty‑five dollars ($45.00) per individual serviceman working for such agency. (For example: 4 individual serviceman x $45.00 = $180.00). Whenever a registered service agency acquires additional individual servicemen after having paid the annual fee, such agency shall, at the time of acquiring the additional servicemen, pay to the Director a pro-rata share of the annual fee for each new serviceman based on the number of months remaining until the time the next annual fee is due. The pro-rata fee for each individual serviceman shall be $3.75 per month. In the case of replacement personnel, no additional fee shall be required.~~

005.03 Upon payment of the annual registration fee, a sales and repair personnel business shall provide to the Director a list of all employee sales and repair personnel working for that business. Any change in the list of individuals shall be immediately reported in writing to the Director

005.04 An employee sales and repair personnel shall no longer be a registered person if he or she ceases to be employed by the sales and repair business for which he or she is registered. If the employee sales and repair personnel changes employers or becomes self-employed, the employee sales and repair personnel shall pay the annual registration fee, however, the Director may waive the testing requirements of 27 NAC 1-004, provided the employee sales and repair personnel has passed the test within the past three years.

006 Certificate of Registration.

006.01 An applicant shall receive an annual Certificate of Registration upon the Director’s determination that:

006.01A The applicant has met the requirements of 27 NAC 1-003;

006.01B The applicant has passed the appropriate examination as required in 27 NAC 1-004;

006.01C The applicant is in compliance with 27 NAC 1‑010; and

006.01D The applicant has submitted the total fee due as required in 27 NAC 1-005.

006.02 A Certificate of Registration shall expire each year on January 31. ~~Upon receipt and acceptance of a properly executed application form, and initial examination and certification of standards and testing equipment to be used, the Director shall, after having received the applicant's annual registration fee, issue to the applicant a Certificate of Registration, including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the Director.~~ ~~Under agency registration, each~~ ~~individual serviceman shall be issued a Certificate of Registration.~~

007 Privileges of Registration ~~a Voluntary Registrant~~. ~~A bearer of a~~

007.01 Persons who have been issued a valid Certificate of Registration as set forth in 27 NAC 1-006 shall have the authority to:

007.01A Remove ~~remove~~ an official rejection tag or mark placed on a weighing ~~or~~ and measuring device by ~~the authority of~~ the Director;

007.01B Place ~~place~~ in service, until such time as an official examination can be made, a weighing ~~or~~ and measuring device that has been officially rejected by the Director; and

007.01C Place ~~place~~ in service, until such time as an official examination can be made, a new or used weighing ~~or~~ and measuring device.

007.02 All work on weighing and measuring devices ~~restored to service or placed in~~  ~~service~~ authorized by 27 NAC 1-007.01 shall be performed by or under the direct supervision of a ~~bearer of a certificate of registration~~ registered person.

007.03 Registered persons shall not be authorized to perform the work described in 27 NAC 1-007.01 for any entity for which the registered person may have a conflict of interest including being an employee of the entity unless such registered person provides written documentation to the Director’s satisfaction that the registered person is acting in a manner which is not, in fact, a conflict of interest.

008 Responsibilities of Registration ~~Voluntary Registrant~~. To remain qualified and retain a valid Certificate of Registration, registered persons shall comply with all applicable provisions of the Act and regulations adopted pursuant to the Act. ~~It shall be the responsibility of the bearer of a Certificate of Registration to comply with the provisions of National Bureau of Standards Handbook~~44~~, and the Examination Procedure Outlines (E.P.O.'s) published by the National~~ ~~Bureau of Standards.~~ Registered persons are responsible to adjust all devices as closely as practicable to zero error.

009 Placed in Service Report. ~~The Director shall furnish each registered serviceman~~ ~~and registered~~ ~~service agency~~ ~~with a supply of report forms to be known as placed~~ Placed in Service Reports shall be obtained by registered persons from the Director or the registered persons may electronically replicate the reports as a true and accurate copy. ~~Such a form~~ Placed in Service Reports shall be executed in triplicate, shall include the assigned registration number, and shall be signed by ~~a~~ the registered ~~serviceman~~ sales and repair personnel or ~~by an~~ ~~individua~~lthe employee sales and repair personnel, actually performing the work ~~serviceman representing a registered agency~~ for each rejected device restored to service and for each newly installed device placed in service. Within 24 hours after a device is restored to service, or placed in service, the original of the ~~properly executed~~ Placed in Service Report which meets the requirements of these regulations~~, together with any official rejection tag removed from the device,~~ shall be mailed to the Director at the address listed on the report or electronically submitted to the Director. An electronic submission is required to include the signature of the sales and repair personnel or the employee sales and repair personnel. ~~Department of Agriculture, Division of Weights and Measures, P.O. Box 4695, State House, Lincoln, Nebraska, 68509.~~ The duplicate copy of the report shall be ~~handed~~ provided to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered person ~~serviceman or agency~~.

010 Standards and Testing Equipment.

010.01 At least every 12 months, all field standards that are used for servicing, installing, repairing, reconditioning and testing weights and measures devices for which the competence of a sales and repair personnel or employee sales and repair personnel is registered shall be submitted to the Director. Prior to initial and subsequent use, the standards are required to be verified as correct, calibrated, or both, by the Director.

010.02 Registered persons shall not use in servicing, installing, repairing or reconditioning commercial weighing and measuring devices any field standards or testing equipment that have not been verified as correct, calibrated, or both, in compliance with 27 NAC 1-010.01.

010.03 In lieu of submission of physical standards, the Director may accept proper documentation that the standards being used have been verified as correct, calibrated, or both, by any laboratory that is formally accredited or recognized by the National Institute of Standards and Technology.

010.04 The Director may also periodically monitor calibration results and verify field standard compliance to specifications and tolerances. ~~A registered serviceman and a registered service agency shall submit to the Weights and Measures Laboratory in Lincoln, upon initial application for voluntary registration and at least annually thereafter, for its examination and certification, any standards and testing equipment that are used or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. The cost of such inspection and certification shall be paid by the registrant in an amount based upon the Standards Laboratory Fee Schedule contained in the rules and regulations of the Department. A registered serviceman or agency shall not use, in servicing commercial weighing or measuring devices, any standards or testing equipment that have not been certified by the Director~~.

~~011 Publication of Lists of Approved standards and Testing Equipment. The Director shall publish from time to time as he deems appropriate, and may supply upon request, information concerning standards and testing equipment acceptable for use by registered~~ ~~servicemen and registered service agencies~~.

~~012~~ 011 Probation, Suspension or Revocation of Certificate of Registration. The Director may~~, for good cause, after careful investigation and consideration~~ place a registered person on probation or~~,~~ suspend or revoke a Certificate of Registration if the Director finds that any registered person is not qualified as set forth in 27 NAC 1-008 to be registered, has failed to pay all fees due as set forth in 27 NAC 1-005 or has performed work which is not authorized by 27 NAC 1-007. Proceedings to take any such action on a registered person may include the Department mandating the removal of an individual from the list of employee sales and repair personnel working for a registered sales and repair business. The provisions for hearings and notice for permitholders under the Act shall apply to registered persons.

~~013 Publication of Lists of Registered Servicemen and Registered Service Agencies. The Director may publish, from time to time as he deems appropriate, and may supply upon request, lists of registered~~ ~~servicemen and registered service agencies~~.

~~014 Effective Date. This regulation shall become effective on January 1, 1974~~.

~~015~~ 012 Annotation. Neb. Rev. Stat. §§~~89-183~~ 89-182.01 to 89-1,103.