

# **PUBLIC and DEPUTY WEIGHMASTER HANDBOOK**

## **ARIZONA REVISED STATUTES, CHAPTER 15 – DEPARTMENT OF WEIGHTS AND MESURES**

### **41-2051. Definitions**

In this chapter, unless the context otherwise requires:

17. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight upon which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

### **41-2093. License as public weighmaster required; application; fee; renewal; exemptions**

**A.** A person shall not serve as a public weighmaster or deputy weighmaster unless the person is issued a public weighmaster or deputy weighmaster license by the department in accordance with practices and procedures to be established by the director. An applicant for a public weighmaster or deputy weighmaster license shall:

1. Demonstrate a thorough knowledge of all appropriate weights and measures laws, rules and policies.
2. Have possession of, or have available for use, a scale that is of sufficient capacity and size and that is licensed and certified pursuant to section 41-2091.
3. Demonstrate the necessary experience and training to operate the scale.
4. Pass the required examination administered by the department.

**B.** An application for a public weighmaster or deputy weighmaster license shall be submitted to the department on a form prescribed and furnished by the department and shall be accompanied by the license fee prescribed in section 41-2092. The department shall issue a public weighmaster or deputy weighmaster license for a period of twelve calendar months. The license expires on the first day of the month and year indicated on the license. A public weighmaster or deputy weighmaster license shall be posted at the licensed scale site in a manner that provides the department access to the license during normal business hours.

**C.** If a licensee submits a license renewal application to the department before the date of expiration of the current license together with the renewal fee prescribed by the department, the existing license shall be valid for thirty days following its expiration date, or until issuance of the renewal license, whichever occurs first.

**D.** Except as otherwise provided in subsection F of this section, certified weighing of any property, livestock or commodity shall be performed only by a public weighmaster or deputy weighmaster. The following persons are not required to obtain licenses as public weighmasters or deputy weighmasters:

1. A person weighing property, livestock or a commodity that the person or the person's employer is either buying or selling for the person's or the person's employer's own account.

2. A person weighing property, livestock or a commodity in conjunction with or on behalf of a publicly sponsored or nonprofit organization sponsored exposition, fair or show event.

**E.** The official weighing of vehicles or conveyances by any employee of a city, county or state agency for weight-control regulatory purposes on public highways, roads or streets does not constitute public weighing.

**F.** On request and without charge, the department may issue a limited weighmaster license to any qualified officer or employee of a city, a county or the state authorizing the officer or employee to act as a public weighmaster only within the scope of the officer's or employee's official employment and duties in enforcing local ordinances substantially complying with the requirements of this chapter. While performing the duties of a limited weighmaster, a limited weighmaster shall have the limited weighmaster's license in the limited weighmaster's possession.

**G.** The department shall approve all forms, certificates, seals and other documents together with practices, procedures and equipment used by public weighmasters or deputy weighmasters in the performance of their duties. A public weighmaster or deputy weighmaster shall keep for such period as the department by rule may require a legible copy of each weight certificate the public weighmaster or deputy weighmaster issues. Copies of weight certificates shall be available at all reasonable times for inspection by the department.

#### **41-2115. Civil penalties**

A. A person who violates this chapter, any rule of the department or any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any license requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with chapter 6, article 10 of this title. Except as prescribed in subsection B of this section, the civil penalty shall not exceed five hundred dollars for each infraction nor more than five thousand dollars for any thirty day period at each business location, for each registered service representative or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty day period.

B. The director may double the maximum civil penalty if any of the following apply:

1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.

2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.

3. A stage II vapor recovery system reinspection fails the required tests.

4. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten per cent or more and at least one error is in favor of the retailer.

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**  
**CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES**

**Supp. 04-2**

Authority: A.R.S. § 41-2065(A)(4) et seq.

**R20-2-101. Definitions**

12. "Handbook 44" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2003 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
16. "NCWM" means the National Conference on Weights and Measures.
21. "NIST" means the National Institute of Standards and Technology.
29. "Seal of authority" means a stamp or press of the Department's official mark, issued to a public weighmaster, certifying the weighmaster's authority to issue weight certificates.
31. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that a commercial device, including a vapor recovery system or vapor recovery component, or a commodity or liquid fuel, does not meet the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter.
34. "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders, or this Chapter.
35. "Weight certificate" means a document, issued by a public weighmaster in a form approved by the Department, that certifies the accuracy of the weight of the commodity measured.

**R20-2-104. Administrative Enforcement Action**

- A. The Department shall take progressive enforcement action for a violation of A.R.S. Title 41, Chapter 15, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.
- B. The Department shall provide a copy of its inspection report to the person who owns or operates a location that the Department inspects. The report shall include the inspection results, violations, and enforcement action.
- C. The person who owns or operates a location inspected by the Department may request a hearing under R20-2-109 to dispute the inspection results, violation, or enforcement action.
- D. The Department shall suspend, revoke, or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.
- E. A maximum civil penalty may be doubled as stated in A.R.S. § 41-2115(B).
- F. Commercial device.
  1. The Department shall place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.
  2. The Department shall confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without Department authority.
  3. The Department shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.
    - a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.
    - b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
  4. The Department shall issue a warning tag when a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the public. The Department shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
  5. The Department shall issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.

6. The Department shall issue an out-of-service tag if a Department inspector cannot conduct an inspection of a commercial device because of a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
  7. The Department shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero.
  8. The Department shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The Department shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
  9. The Department shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Department shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
  10. In addition to any enforcement action under subsections (F)(1) through (F)(9):
    - a. If the Department finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 41, Chapter 15, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
      - i. The Department shall impose a \$300 civil penalty on the person who owns or operates the commercial device; and
      - ii. The Department shall impose a \$500 civil penalty on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
    - b. If the Department finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
      - i. The Department shall issue an administrative order to the person at the conclusion of the inspection and impose a \$300 civil penalty; and
      - ii. The Department shall issue an administrative order to the person and impose a \$500 civil penalty at each reinspection until the person complies with Handbook 44 and this Chapter.
- G. Public and deputy weighmaster.
1. The Department shall issue an administrative order if a public weighmaster's:
    - a. Weigh tickets are not in numbered sequence or are missing,
    - b. Seal or press is not readable, or
    - c. Records are not maintained according to R20-2-505.
  2. The Department shall issue an administrative order and impose a \$500 civil penalty on a public weighmaster if:
    - a. The public weighmaster's weigh tickets contain inaccurate information,
    - b. The public weighmaster violates an administrative order, or
    - c. The public weighmaster misuses a seal or press or has an unauthorized seal or press.
  3. The Department shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
  4. The Department shall suspend, revoke, or refuse to renew a license if a public weighmaster does not comply with an enforcement action under this Section.
  5. The Department shall issue an administrative order to a person who performs public weighmaster duties without a license.
  6. If a public weighmaster permits an unlicensed person to perform deputy weighmaster duties, the Department shall:
    - a. Impose a \$300 civil penalty on the public weighmaster for the first time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties;
    - b. Impose a \$500 civil penalty on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties; and
    - c. Confiscate the public weighmaster's records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy weighmaster duties more than twice.

**R20-2-109. Administrative Hearing Procedures**

A.R.S. Title 41, Chapter 6, Articles 6 and 10 apply to the Department's hearings.

**R20-2-203. Approval, Installation, and Sale of Devices**

- A. A commercial device installed or placed in use after January 1, 1975, shall be prototype-approved by NCWM or have a certificate of approval from the California Type Evaluation Program.
1. If a commercial device has been continuously licensed since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval.

2. If a commercial device exempt under subsection (A)(1) fails the specifications, tolerances, or other technical requirements of Handbook 44 during a Department inspection, the Department shall revoke the commercial device license and a person shall not use the device commercially.

**R20-2-204. Livestock and Vehicle Scale Installation**

- A. Portable livestock and portable vehicle scales shall be designed to be moveable from one location to another.
- B. Portable scales and low-profile electronic scales shall be accessible for maintenance.
- C. Notwithstanding Handbook 44, vehicle and livestock scales installed above ground shall have 2 feet minimum clearance from the bottom of the lowest platform support girder to the ground.
- D. Notwithstanding Handbook 44, vehicle and livestock scales, installed with a pit, shall have 2 feet minimum clearance from the bottom of the main girder that is lowest in platform support to the pit floor.

**ARTICLE 5. PUBLIC WEIGHMASTERS**

**R20-2-501. Qualifications; License and Renewal Application Process**

- A. In addition to the requirements of A.R.S. § 41-2093, to be a public weighmaster or a deputy public weighmaster, a person shall:
  1. Be at least 18 years old,
  2. Be able to operate a scale accurately, and
  3. Be able to execute weight certificates properly.
- B. A person shall not perform the duties of a public weighmaster or deputy public weighmaster until the person passes the written weighmaster examination administered by the Department. A person may not take the examination more than two times in six months.
- C. A person that meets the qualifications for public weighmaster or deputy public weighmaster may apply for a license on a form supplied by the Department.
  1. The application form includes:
    - a. The applicant's name, address, and telephone number;
    - b. A statement by the applicant that the applicant knows and understands weighmaster laws and rules;
    - c. The name, address, and telephone number of each of the applicant's public weighmaster locations; and
    - d. The applicant's signature.
  2. The public weighmaster's application form also includes:
    - a. The name of each deputy public weighmaster;
    - b. The name and address of the scale; and
    - c. The scale description.
  3. An applicant may be required to submit evidence of qualifications and shall be examined regarding competence or qualifications.
- D. Before the Department issues or renews a public weighmaster or deputy public weighmaster license, the applicant shall pay the required fees and provide information required in A.R.S. Title 41, Chapter 15, and this Chapter.
- E. The Department does not charge a fee to process a change in name or address.

**Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). R20-2-501 recodified from R4-31-501 (Supp. 95-1). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2).

**R20-2-502. Duties**

- A public weighmaster shall:
1. Be responsible for the daily operation and maintenance of the licensed scale used when performing weighmaster duties;
  2. Use scales according to applicable laws and rules; and
  3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster.

**Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). R20-2-502 recodified from R4-31-502 (Supp. 95-1). R20-2-502 renumbered to R20-2-504; new Section R20-2-502 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2).

**R20-2-503. Grounds for Denying License or Renewal; and Disciplinary Action**

- A. The Department may deny a weighmaster license for any of the following reasons:
  - 1. Providing false or misleading information;
  - 2. Failing to meet the requirements stated in this Article; or
  - 3. Any of the reasons stated in subsections (B)(1) through (9).
- B. The Department may impose disciplinary action against, or refuse to renew a public weighmaster's license for any of the reasons stated in subsection (A)(1) or (2), or if the Department has determined that the public weighmaster:
  - 1. Does not have the ability to weigh accurately;
  - 2. Has not correctly made weight certificates;
  - 3. Has been found to have violated any provision of A.R.S. Title 41, Chapter 15, or this Chapter;
  - 4. Has falsified a weight certificate;
  - 5. Has delegated authority to someone other than a licensed public weighmaster or deputy public weighmaster;
  - 6. Has improperly used a weighmaster's seal of authority;
  - 7. Has presigned certificates for later use;
  - 8. Has issued a weight certificate on which changes or alterations were made; or
  - 9. Has used a scale for public weighing that is not properly licensed.

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). R20-2-503 recodified from R4-31-503 (Supp. 95-1). R20-2-503 renumbered to R20-2-505; new Section R20-2-503 adopted effective October 8, 1998 (Supp. 98-4).

#### **R20-2-504. Scales and Vehicle Weighing**

- A. When making a weight determination, a public weighmaster shall use a weighing device that is suitable for the function.
- B. The public weighmaster shall not use a scale to weigh a load that exceeds the normal or rated capacity of the scale.
- C. The owner or user of a weighing device is responsible for the accuracy of the device used by a public weighmaster. The owner or user shall comply with Handbook 44.
- D. If a scale is equipped with a printing device, it shall be used for all relevant entries on the weight certificate.
- E. The Department shall separately license and regulate each scale location.
- F. A weighmaster shall weigh any vehicle or combination of vehicles on a scale having a platform that fully accommodates the vehicle or combination of vehicles as one unit.
- G. If a combination of vehicles is divided into separate units to be weighed, each separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each unit.

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). R20-2-504 recodified from R4-31-504 (Supp. 95-1). R20-2-504 renumbered to R20-2-506; new Section R20-2-504 renumbered from R20-2-502 and amended effective October 8, 1998 (Supp. 98-4).

#### **R20-2-505. Weight Certificates**

- A. In issuing a weight certificate, a public weighmaster shall enter only those weight values that the weighmaster or deputy weighmaster has accurately and personally determined.
- B. A public weighmaster shall not make any entries on a weight certificate issued by another person.
- C. By signing a weight certificate, a weighmaster or the weighmaster's deputy shall be responsible for the accuracy of all entries on the weight certificate.
- D. A weight certificate is valid only when properly signed and sealed by the issuing weighmaster or the weighmaster's deputy.
- E. If an error is made on a weight certificate, the weighmaster shall void the certificate and issue a new certificate. No changes or alterations shall be made on a certificate.
- F. A weight certificate shall state:
  - 1. The date of issuance;
  - 2. The name of the declared owner, agent, or consignee of the material weighed;
  - 3. The accurate weight of the material weighed or counted;
  - 4. The means by which the material is being transported at the time it is weighed or counted;
  - 5. An identification number of the transporting unit, including a license number; and
  - 6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the described merchandise was weighed, counted, or measured by a public or deputy weighmaster, and when properly signed and sealed, is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law."

- G. A public weighmaster shall maintain a legible copy of each weight certificate issued at each scale location, for a minimum of one year. A weighmaster also shall ensure that weight certificates are consecutively numbered and filed numerically. A weighmaster shall not use another filing system without Department approval.

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). R20-2-505 recodified from R4-31-505 (Supp. 95-1). R20-2-505 renumbered to R20-2-507; new Section R20-2-505 renumbered from R20-2-503 and amended effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2).

#### **R20-2-506. Seal of Authority**

- A. A weighmaster shall obtain a seal for the certification of weight certificates at cost through the Department.
- B. The Department shall assign a number to a seal identifying the public weighmaster and the specific location for which the seal is issued.
- C. A seal is the property of the state. A weighmaster shall surrender a seal to the Department within 30 days after the weighmaster no longer operates as a licensed public weighmaster.
- D. A public weighmaster shall have one seal for use at each scale location.
- E. A seal shall be accessible to the weighmaster and authorized deputies during all business hours at the scale location for the timely and proper certification of weight certificates.
- F. A public weighmaster shall keep a seal of authority at each scale location and make it available for inspection by the Department during all business hours.

#### **Historical Note**

R20-2-506 renumbered from R20-2-504 and amended effective October 8, 1998 (Supp. 98-4).

#### **R20-2-507. Prohibited Acts**

- A. A person shall not:
1. Issue a certified weight certificate without being a licensed public weighmaster or a person properly authorized to act for a public weighmaster;
  2. Procure, print, or cause to be printed any public weighmaster weight certificate without being a licensed public weighmaster or a person authorized to act for a public weighmaster;
  3. Possess unfilled or unused public weighmaster weight certificate forms without being a licensed public weighmaster or a person authorized to act for a public weighmaster;
  4. Furnish or give false information to a weighmaster for use in the completion of a weight certificate;
  5. Present a certificate for payment falsified by the insertion of any weight, measure, or count not determined by the issuing weighmaster;
  6. Use without authorization the title "licensed public weighmaster" or any similar title;
  7. Represent oneself to be a public weighmaster without holding a license issued by the Department;
  8. Engage in public weighing without holding a valid license as a public weighmaster, or acting under the authority of a licensed public weighmaster;
  9. Use an unlicensed scale in the performance of public weighmaster duties; or
  10. Operate a scale for public weighing unless that person is licensed as a public weighmaster.
- B. People engaged in the business of printing weight certificate forms, their representatives, and the Department are exempt from the prohibitions specified in subsections (A)(2) and (3).