

## CHAPTER 69-10-04 SERVICE REGULATIONS

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**69-10-04-01. Registration of service persons.** A registered service person has the authority to certify weighing or measuring devices described in North Dakota Century Code section 64-02-13 and to remove an official rejection, "equipment repair notice", or "not sealed" tag or sticker and place the device in service.

**History:** Amended effective April 1, 1992; September 1, 1994; July 1, 1997.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02

**69-10-04-01.1. Registration of service companies.** A registered service company has the authority to maintain state-certified field standards and to employ a registered service person to design, install, and repair a commercial weighing or measuring device as described in North Dakota Century Code section 64-02-13.

**History:** Effective July 1, 1998.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02

**69-10-04-02. Application for registration and permitting of a service person.** Annual application for registration as a registered service person must be submitted to the commission under the following requirements:

1. A first-time applicant shall:

- a. Provide a written history of education and work experience to show that the applicant is fully qualified to repair, test, and certify a commercial weighing or measuring device; and
  - b. Complete written tests that must be taken at a location and time designated by the commission, and must be administered as follows:
    - (1) The written test will be open book, with seventy-five percent as the minimum passing score. The test material will cover the applicable sections of the adopted 1999 edition of NIST Handbook No. 44, North Dakota Century Code title 64, and North Dakota Administrative Code article 69-10; and
    - (2) In the case of a test failure, an applicant may retake the tests after a review period of ten working days.
2. Each applicant registered by the commission shall utilize adequate standards during the testing and certification of a commercial device.
  3. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least fifteen days prior to the expiration date of the applicant's existing registration. Each applicant who has renewed an existing registration shall utilize adequate standards during the testing and certification of a commercial device.

**History:** Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005; July 1, 2008; October 1, 2010.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02

**69-10-04-02.1. Self-certification.** Self-certification to repair, test, and certify an operator's own commercial weighing and measuring devices is permitted only as provided in this section:

1. Only hazardous liquid pipeline operators, North Dakota highway patrol, natural gas pipeline operators, and manufacturing-processing operators may self-certify;
2. Applications must be submitted to the commission in writing;
3. Commission approval is required annually; and
4. Applications must address the following conditions:
  - a. The person doing the self-certification must be registered with the commission under section 69-10-04-02. However, persons or companies who make written application to the commission describing their weighing or measuring devices, operating

and maintenance procedures, testing processes including a list of testing technicians and their expertise, and reporting requirements, subject to commission approval, may be exempt from the provisions of section 69-10-04-02, except for subdivision d of subsection 1 and subdivision b of subsection 2 of section 69-10-04-02.

- b. Upon testing, the device must be within commission-approved tolerance.
- c. Whenever a weighing or measuring device is recertified, the person or company recertifying that device shall, within seven working days, report the recertification to the commission. The report must clearly identify each device, the initial test results recorded during self-certification, and the test results upon recertification.
- d. A weights and measures inspector may randomly recertify any self-certified weighing or measuring device either by performing a test or by witnessing a test performed by a self-certified service person.

**History:** Effective April 1, 1992; amended effective August 1, 1993; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-02.2. Application for registration of a service company.** An annual application for registration as a registered service company must be filed with the commission prior to conducting any service work on commercial weighing or measuring devices and must include:

- 1. Acceptable evidence that all of the service standards used to test and approve commercial weighing or measuring devices have been certified under section 69-10-03-02;
- 2. A copy of the company's standardized report form, if not currently on file with the commission, as required by section 69-10-04-05;
- 3. A sample of the company's "tested and approved" sticker and internal seals, if not currently on file with the commission, as required by section 69-10-01-03; and
- 4. An application for registration.

**History:** Effective July 1, 1998; amended effective May 1, 2005.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-02.3. Issuing a placing in service permit.** Upon acceptance and approval of an application, the commission shall issue a placing in service permit to the applicant. All permits issued under this section remain the property of the commission and must be surrendered upon demand. Permits issued will be either probationary or permanent as defined in this section.

**1. Probationary permits.**

- a. An applicant with less than three months' experience repairing and placing devices into service will receive a probationary permit;
- b. The duration of a probationary permit will be at the discretion of the commission but will not exceed six months from the date of testing; and
- c. A probationary permitholder shall be accompanied by, and have each placing in service test report cosigned by, a permanent permitholder from the same service company in order for the test report or the placing in service to be considered valid.

**2. Permanent permits.**

- a. An applicant with more than three months' experience repairing and placing devices into service will receive a permanent permit;
- b. An applicant who has been previously tested and issued a permanent permit by the commission within the last five years, but has allowed it to expire, will receive a permanent permit; or
- c. A probationary permitholder who has completed probationary time assigned without receiving any quality control failures will receive a permanent permit.

**History:** Effective May 1, 2005; amended effective October 1, 2010.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02

**69-10-04-03. Revocation of registration.** The commission may, for good cause, suspend or revoke a registered service person's permit or a registered service company's permit. A person or a company not registered with the commission but qualified to install a commercial weighing or measuring device may install but may not service, repair, or recondition a commercial weighing or measuring device without a variance permit from the commission.

**History:** Amended effective April 1, 1992; July 1, 1997; July 1, 1998; October 1, 1999; July 1, 2008.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02

**69-10-04-04. Reports.** A registered service person must, within seven working days, send a test report on all commercial weighing or measuring devices certified, recertified, serviced, or inspected and tested by the person to the commission, and shall furnish a copy of the test report to the owner or operator of the device.

**History:** Amended effective April 1, 1992; August 1, 1993; September 1, 1994; July 1, 1997.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-05. Standardized report forms.** All test report forms filed with the commission after July 1, 1994, must be in a format. The commission will issue copies of the standardized prototype to all newly permitted registered service companies.

**History:** Effective August 1, 1993; amended effective February 1, 1996; October 1, 1999.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-06. Quality control - Evaluation.** The commission may evaluate the work performed by a registered service person to ensure that the person is performing proper inspections and tests. The evaluation method may be by direct observation of a registered service person placing a commercial device into service or by reinspection of a device previously placed into service by a registered service person. The commission may consider the following criteria during the evaluation:

1. The results of a random sampling of at least one inspection and test per year, or more if so ordered by the commission, of the devices certified by a registered service person;
2. Complaints filed against a registered service person, and whether those complaints are valid; and
3. Other factors deemed relevant by the commission.

**History:** Effective September 1, 1994; amended effective February 1, 1996; October 1, 1999; July 1, 2008; October 1, 2010.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-06.1. Quality control - Failures.** Repealed effective October 1, 2010.

**69-10-04-06.2. Procedures for evaluating work of registered service persons.** A quality control inspection to evaluate the work of a registered service person will be conducted as set forth in this section:

1. Selection criteria includes:
  - a. Location of the device in relation to location of the appropriate state inspector is a controlling factor;
  - b. Each registered service person whose annual device testing total is at least one hundred will be evaluated on one of every one hundred devices tested;
  - c. Each registered service person whose annual device testing total is less than one hundred will be assigned a quality control level related to the number of total devices tested the previous year; and
  - d. Receipt of a complaint.
2. A registered service person who receives multiple quality control inspections within a twelve-month period because of the number of devices tested, and has not failed on the first scheduled quality control inspection for that time period, will receive an honorary pass on the second scheduled quality control inspection. If the number of devices tested requires a third quality control inspection which the registered service person does not fail, the fourth scheduled quality control inspection will again be an honorary pass.
3. A specific quality control inspection ends when the tested device either fails a portion of the inspection or it passes the inspection.
4. When a device fails a quality control inspection, the failure will be documented, the device will be rejected, and a followup quality control inspection will be conducted as soon as practicable.

**History:** Effective May 1, 2005; amended effective October 1, 2010.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-06.3. Quality control - Failures.** A quality control evaluation test report that discloses a failure must include any alleged violations of North Dakota Century Code chapter 64-03, North Dakota Administrative Code chapter 69-10-03, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 69-10-03-01. If a registered service person fails three consecutive quality control inspections within a twelve-month period, the commission may:

1. Issue a written warning requiring remedial action within thirty days from the date of the warning;
2. Schedule a conference with the registered service person and that person's employer;

3. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;
4. Reduce the registered service person's permit status to probationary for up to six months; or
5. Suspend the registered service person's permit and assess a civil penalty.

The results of any quality control failures and associated enforcement actions may be sent to the registered service person's employer and to the owner or operator of the affected device.

A quality control evaluation report and a record of any associated enforcement action is filed as part of the overall quality control profile of the affected registered service person and must remain part of that profile for twelve months from the date of the failure.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-07. Adequate field standard requirements - Exception.**

All state weights and measures inspectors and registered service companies shall make available minimum test weights and test loads as required by NIST Handbook No. 44, table 4, during tests of commercial weighing devices. However, during highway load restrictions as announced by the North Dakota department of transportation, shift tests, load-bearing tests, and section tests required by section 69-10-02-21 and NIST Handbook No. 44, table 4, may be performed with a test load of ten thousand pounds [4535.9 kilograms].

**History:** Effective July 1, 1998.

**General Authority:** NDCC 64-02-03

**Law Implemented:** NDCC 64-02-02, 64-02-13

**69-10-04-08. Devices taken out of service.** Repealed effective May 1, 2005.