

TRANSMITTAL SHEET FOR
 NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Rule No.: 80-13-9-.04

Rule Title: Calibration of Test Weights and Measures.

 New; x Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? Yes

Is there another less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

 Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

 Certification of Authorized Official
 I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer John McMillan

Date: 6-15-2012

(DATE FILED)
 (STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ANIMAL INDUSTRY

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Rule No. & Title: 80-13-9-.04 Calibration of Test Weights and Measures.

Intended Action: To amend rule.

Substance of Proposed Action: Proposed rule will require that all weighing and measuring devices used by a registrant shall be calibrated within 12 months.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, August 14, 2012 at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama.

Final Date for Comment and Completion of Notice: August 14, 2012.

Contact Person at Agency: Patrick B. Moody, Legal Counsel and, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334)240-7117.

6-15-2012
Date

John McMillan
John McMillan
Commissioner of Agriculture
and Industries

Calibration Of Test Weights And Measures.

(1) As stated in rules 80-13-9-.02 and 80-13-9-.03, all test weighing and measuring devices must be calibrated at least once per year or more often by the Weights and Measures Laboratory of the Department or the proper authorities of another state which can show traceability to the National Bureau of Standards.

(2) No certificate of registration shall be issued until the applicants' test weights and measures have been calibrated and approved. This calibration should take place within 30 days prior to the expiration date of the certificate of registration.

(3) Any registrant using test weighing and measuring devices in those activities which require registration that have not been calibrated within 12 months will be deemed to be in violation of the law and forbidden to remove condemnation tags, ~~for purposes of repair~~ , service, or install said devices.

(4) Those individuals or entities utilizing the services of the Alabama Department of Agriculture and Industries to certify the accuracy of test weights and measuring devices shall pay an annual certification fee based upon the type of weighing or measuring unit certified as follows:

(a) 0-10 pounds \$5.00 per unit or the metric equivalent

(b) 11-50 pounds \$8.00 per unit or the metric equivalent

(c) 51- 1000 pounds \$15.00 per unit or the metric equivalent

(d) Greater than 1000 pounds \$30.00 per unit or the metric equivalent

(e) Container with 0-5 gallon \$30.00 per unit capacity or metric equivalent

(f) Container with 5-50 gallon \$40.00

per unit capacity or metric equivalent

(g) Container with 51-100 gallon \$75.00
per unit capacity or metric equivalent

(h) Container with 101-500 gallon \$150.00
per unit capacity or metric equivalent

(i) Container with 501-and greater gallon
\$350.00 per unit capacity or metric equivalent

(5) No individual or entity remitting any fees to the Alabama Department of Agriculture and Industries under Chapters 19, 21, 22, 23, or 26 of title 2 of the Code of Ala. 1975, as amended shall be required to pay in the aggregate an amount under this regulation in excess of \$30.00 for any one twelve month period beginning October 1 and ending September 30.

(6) Scales and weighing devices utilized in livestock markets as defined in chapter 15 of title 2 of the Code of Ala. 1975, as amended shall be specifically exempt from this regulation.

(7) All individuals or entities required to register under this Chapter as outlined hereinabove shall submit to the Commissioner of Agriculture and Industries on or before October 1 of each year a list of any and all devices serviced, calibrated, or installed during the previous twelve months. Failure to comply with the provisions of this subsection shall be subject to the penalties contained in §8-16-123 of the Code of Ala. 1975, as amended.

(8) Governmental entities shall be exempt from the fee requirements of this rule.

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell, Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §8-16-121.

History: Filed: November 25, 1987. **Amended:** Filed August 16, 2004; effective September 22, 2004:

Amended: Filed February 20, 2008; effective March 31, 2008. **Amended:**