

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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2008 JUL 17 PM 1:37

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

RULE TYPE: Legislative CITE AUTHORITY: 47-1-3 (c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Weights and Measures Calibration Fees

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 18, 2008 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Division of Labor

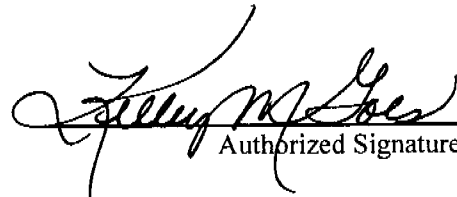
State Capitol Complex

Building 6, Room B-749

Charleston, WV 253005

Attention: Commissioner David W. Mullins

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FACTS AND CIRCUMSTANCES FOR THE PROPOSED RULE CHANGES

The purpose of the changes in the proposed rule is to increase the fees for cast iron weights needing adjustment and for LPG provers requiring certification for accuracy.

All volumetric provers were originally in one category. A standard prover takes four hours to certify. An LPG prover takes three days to certify due to special requirements for pressurizing.

SUMMARY OF PROPOSED RULE CHANGES

See "Appendix A."

Explanation for additional fee for cast iron weights added.

LPG Prover, 25 and 100 gallons, including frequency of calibration and fees, added.s

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Weights and Measures Calibration Fees

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Division of Labor

Address: Room 749-B Building # 6
Capitol Complex
Charleston, WV 25305

Phone Number: 304-558-7890 Email: john.r.junkins@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Volumetric provers were all in one category. A standard volumetric prover takes less than 4 hours to certify. A volumetric LPG (PROPANE) prover takes 3 days to certify because of the special requirements for pressurizing. Currently these test expenses are being assumed by the Weights and Measures Section of the Division of Labor. The proposed fee increases would offset the expense in certifying these pressurized LPG (PROPANE) provers.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	4,000.00	4,000.00

Rule Title: _____

Rule Title: Weights and Measures Calibration Fees

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

These figures are based upon 1 LPG (PROPANE) prover and 5400 cast iron weights. The sole intent is to make this program self supporting.

The fee increasee are adding an adjustment fee to cast iron weights that need to be adjusted to be certified and add a fee for certifying LPG (PROPANE) provers. These provers are substantially different than a standard volumetric prover.

\$10.00 adjustment fee for each cast iron weight, that is adjusted.

\$215.00 certification fee for 25 gallon LPG (PROPANE) prover. Good for 5 years.

\$450.00 certification fee for 100 gallon LPG (PROPANE) prover. Good for 5 years.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

NONE

Date: 7-15-08

Signature of Agency Head or Authorized Representative

David W. Martin

TITLE 42
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF LABOR

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SERIES 26
WEIGHTS AND MEASURES CALIBRATION FEES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§42-26-1. General.

1.1 Scope. -- This legislative rule establishes laboratory calibration fees for weights and measures testing standards which are used to verify the accuracy of weighing and measuring devices used for commercial purposes.

1.2. Authority. -- W. Va. Code ~~§47-1-20~~. § 47-1-3 (c).

1.3. Filing Date. -- ~~May 13, 2005~~.

1.4. Effective Date. -- ~~July 1, 2005~~.

§42-26-2. Application and Enforcement.

2.1. Application. This legislative rule governs all persons, firms, corporations, government entities, materials and transactions covered by the provisions of W. Va. Code §47-1-1, et seq.

2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor or its designated representatives as authorized by W. Va. Code §47-1-3.

§42-26-3. Definitions.

3.1. "Division" means the West Virginia Division of Labor.

3.2. "Device" means any weighing or measuring apparatus used in this state for commercial purposes.

3.3. "Standards" means weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology.

§42-26-4. Fees.

The division shall charge laboratory calibration fees for all testing standards according to the table in appendix A.

§42-26-5. Payment of fees.

The division shall provide the owner of any standards calibrated by the division with an invoice for services rendered. The owner shall pay the invoice within thirty (30) days of the date of the invoice. The division may refuse services to any person, firm, corporation or government entity who has failed to pay an invoice for services.

Appendix A. Weights & Measures Laboratory Fee Structure				
Description of Standards	Per	Calib Freq,	Calib Fee	Storage Fees (see Note 10 below)
5 gallon Test Measure	each	1 year	\$20.00	Storage fee is \$2.00 / day after 10 days from notification
Provers >5 gal and <=50gal	each	1 year	\$75.00	Storage fee is 15% of calibration fee after 10 days from notification
Provers >50 <400 gal	each	1 year	\$150.00	Storage fee is 15% of calibration fee after 10 days from notification
Provers >=400 gal	each	5 years	\$300.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights Carts	See**	1 year	\$125.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >= 2000lbs	See **	see note 8	\$25.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >=500lb <2000lb	See **	1 year	\$20.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >=20 <500lb	See **	1 year	\$5.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights <20lb	See **	1 year	\$3.00	Storage fee is \$2.00 / day after 10 days from notification
Pharmacy Weight Kits	up to 16 weights	5 years	\$50.00	Storage fee is \$2.00 / day after 10 days from notification
Lottery Daily 3, per set of 10	per set	see note 9	\$25.00	No Storage fee
Lottery Cash 25, per case	per case	see note 9	\$50.00	No Storage fee
LPG (Propane) Prover 25 Gal.	each	5 years	\$215.00	Storage fee is 15% of calibration fee after 10 days from notification
LPG (Propane) Prover 100 Gal	each	5 years	\$450.00	Storage fee is 15% of calibration fee after 10 days from notification
Notes relative to Appendix A.				
1. The Weights & Measures laboratory staff reserves the right to refuse any standards that are considered not suitable for testing				
2. A cleaning fee of \$25 will be added to the regular test fee for each 5 gallon test measure, if cleaning is considered to be necessary				
3. A \$25 fee for appointment cancellation will be levied if less than 48 hours notice of cancellation is given by company representatives				
4. Fees for metric standards will be charged at the comparable rate for customary standards as shown in Appendix A				
5. Subsequent retesting for rejected or condemned standards will be charged at the applicable rate shown in Appendix A				
6. For Pharmacy weight kits with more than 16 weights, additional weights will be charged as individual weights at \$3 each				
7. All applicable shipping charges to and from Weights & Measures Laboratory shall be paid by company or person submitting the standards				
8. Calibration frequency for fixed location coal loadout weights is 5 years; all others 1 year				
9. Monthly Calibration frequency on Lottery balls is set by Lottery Commission rather than Weights & Measures rule				
10. Depending on the standard type, a storage fee of either 15% of the total Calibration Fee or \$2 per day will be added to the amount due for that calibration, beginning 10 days after written or verbal notice is given to an authorized company representative				
** There will be a \$10.00 adjustment fee on any cast iron weights of 1lb and above needing adjustment				