

CHAPTER 69-10-04 SERVICE REGULATIONS

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69-10-04-01. Registered service persons - Privileges and responsibilities.

A registered service person shall have the authority to remove an official rejection seal, equipment repair notice tag, noncommercial device seal, device certification seal, or other mark placed on a weighing or measuring device by the authority of the commission. Furthermore, a registered service person has the authority to certify weighing or measuring devices described in North Dakota Century Code section 64-02-13.

A registered service person is responsible for installing, repairing, and adjusting devices such that the devices are adjusted as closely as practicable to zero error.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2021.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-01.1. Registered service companies - Privileges and responsibilities.

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; amended effective January 1, 2021.

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.

An applicant must be employed by a currently permitted registered serviced company to be eligible for permitting as a registered 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 or an applicant whose permit has been expired more than two years shall:
 - a. Submit a complete application for registration as a registered service person on the form prescribed by the commission. The form must include certification that the applicant is

fully qualified to install, service, repair, recondition, test, and certify the device types for which permitting is being requested;

- b. Provide a history of education or work experience to show that the applicant is fully qualified to install, service, repair, recondition, test, and certify a commercial weighing or measuring device on the form provided by the commission. Applicants may only qualify to test devices for which they have met the education and work history requirements. Education and work history requirements include:
 - (1) Sixty days of on the job training directly related to the installation, maintenance, repair, and calibration of all device types the applicant will be certifying or placing into service; or
 - (2) Satisfactorily completed a manufacturer's in-depth training course covering the installation, maintenance, repair, and calibration of each device type the applicant will be certifying or placing into service. Proof of course completion is required; or
 - (3) Holding a certification from another state as a registered service person, for at least sixty days, with authority to certify or place weighing or measuring devices into service. Proof of current certification must be provided.
 - c. 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 eighty percent as the minimum passing score. The test material will cover the applicable sections of the adopted 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 as provided in this chapter.
 3. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least thirty days prior to the expiration date of the applicant's existing registration.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005; July 1, 2008; October 1, 2010; January 1, 2021.

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, 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.
- 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; January 1, 2021.

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.

1. 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:
 - a. 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;
 - b. A copy of the company's standardized report form as required by section 69-10-04-05;
 - c. A sample of the company's "tested and approved" sticker and internal seals, certification seal, and security seals, as required by section 69-10-01-03; and
 - d. An application for registration.
2. Upon acceptance and approval of an application, the commission will issue the service company an annual permit as a registered service company.

History: Effective July 1, 1998; amended effective May 1, 2005; January 1, 2021.

General Authority: NDCC 64-02-03

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

69-10-04-02.3. Placing in service permits.

Upon acceptance and approval of an application, the commission shall issue a placing in service permit to the registered service person. 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 annual as defined in this section. Permits must be carried at all times while conducting weighing or measuring device servicing or certification and must be produced upon request.

1. **Probationary permits.**
 - a. An annual permitholder's permit may be downgraded to probationary for not performing proper tests and inspections or other violations deemed relevant by the commission;
 - b. The duration of the probationary permit will be at the discretion of the commission but will not exceed six months from the effective date; and

- c. A probationary permitholder shall be accompanied by, and have each placing in service test report cosigned by, an annual permitholder from the same service company and qualified in the same weighing or measuring device category in order for the test report or the placing in service to be considered valid.

2. Annual permits.

- a. An applicant who has met the work history or experience requirements of a registered service person and satisfactorily completed all required tests will receive an annual permit;
- b. An applicant who has previously held an annual permit by the commission within the last two years, but has allowed it to expire, is eligible for permit reinstatement; and
- c. A probationary permitholder who has completed probationary time or requirements without receiving any quality assurance failures will receive an annual permit.

History: Effective May 1, 2005; amended effective October 1, 2010; January 1, 2021.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-03. Revocation of permit - Service company and service person.

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 place in service, 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; January 1, 2021.

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 must be in a commission-approved format. Failure to file a test report in a commission-approved format may result in the rejection of the report.

History: Effective August 1, 1993; amended effective February 1, 1996; October 1, 1999; January 1, 2021.

General Authority: NDCC 64-02-03

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

69-10-04-06. Quality assurance - Evaluation.

1. 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 or by reinspection of a device previously placed or recertified by a registered service person. The commission may consider the following criteria during the evaluation:

- a. The results of previous quality assurance inspections;
 - b. Complaints filed against a registered service person, and whether those complaints are valid; and
 - c. Other factors deemed relevant by the commission.
2. A quality assurance inspection ends when the tested device either fails a portion of the inspection or it passes the inspection. When a device fails a quality assurance inspection, the failure will be documented, the device will be rejected, and a followup quality assurance inspection will be conducted as soon as practical. When a device passes a quality assurance inspection, a weights and measures inspector shall affix a quality assurance inspected tag to the device. A quality assurance inspection does not take the place of the annual certification.

History: Effective September 1, 1994; amended effective February 1, 1996; October 1, 1999; July 1, 2008; October 1, 2010; January 1, 2021.

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.

Repealed effective January 1, 2021.

69-10-04-06.3. Quality assurance - Failures.

A quality assurance evaluation test report that discloses a failure must include any alleged violations of North Dakota Century Code title 64, North Dakota Administrative Code title 69, 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 quality assurance 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. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;
3. Reduce the registered service person's permit status to probationary for up to six months;
4. Suspend the registered service person's permit and assess a civil penalty; or
5. Other actions deemed suitable by the commission.

The results of any quality assurance 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 assurance evaluation report and a record of any associated enforcement action is filed as part of the overall quality assurance 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; amended effective January 1, 2021.

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.