

# North Dakota Legislative Council

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September 17, 2010

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**PUBLIC SERVICE COMMISSION**

Ms. Illona A. Jeffcoat-Sacco  
Executive Secretary  
Public Service Commission  
State Capitol  
Bismarck, ND 58505-

Dear Ms. Jeffcoat-Sacco:

We have completed preparation of the North Dakota Administrative Code rules changes you recently submitted to our office for publication. Enclosed are copies of two different versions of those rules.

The first enclosed copy shows revised North Dakota Administrative Code sections as they will be published in the next supplement of the North Dakota Administrative Code.

The other enclosed copy shows our editorial changes to the rules as submitted. Please observe the style and grammar changes we have made.

Please contact this office if you have any questions regarding these rules.

Sincerely,



Jeffrey N. Nelson  
Assistant Code Revisor

JNN/CS  
Encs.

**28** **PU-10-159** Filed: 9/17/2010 Pages: 35  
**Publication copies of Rules**

Legislative Council

Jeffrey N. Nelson, Assist. Code Revisor

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## **TITLE 69**

### **PUBLIC SERVICE COMMISSION**

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<b>69-01</b>	<b>General Administration</b>
<b>69-02</b>	<b>Practice and Procedure</b>
<b>69-03</b>	<b>Motor Carrier Authority and Operations [Repealed]</b>
<b>69-04</b>	<b>Transportation - Loss, Claims, Damages, and Rates</b>
<b>69-05</b>	<b>Surface Coal Mining and Reclamation Operations [Superseded]</b>
<b>69-05.1</b>	<b>Surface Coal Mining and Reclamation Operations [Superseded]</b>
<b>69-05.2</b>	<b>Surface Coal Mining and Reclamation Operations</b>
<b>69-05.3</b>	<b>Abandoned Mine Land Reclamation</b>
<b>69-06</b>	<b>Energy Conversion and Transmission Facility Siting</b>
<b>69-07</b>	<b>Public Warehousing and Roving Grain and Hay Buyers Division</b>
<b>69-08</b>	<b>Auctioneers and Auction Clerks</b>
<b>69-09</b>	<b>Public Utility Division</b>
<b>69-10</b>	<b>Testing and Safety</b>

**ARTICLE 69-10**

**TESTING AND SAFETY**

Chapter	
69-10-01	Weights and Measures - General
69-10-02	Scales
69-10-03	Standards
69-10-04	Service Regulations
69-10-05	Oil and Gas Metering Systems [Repealed]

**CHAPTER 69-10-01  
WEIGHTS AND MEASURES - GENERAL**

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69-10-01-02	Installation by Other Than a Registered Service Person
69-10-01-02.1	Certification
69-10-01-02.2	Repair and Calibration
69-10-01-02.3	Recertification
69-10-01-03	Sealing
69-10-01-03.1	Registration of a New or Moved Commercial Device
69-10-01-03.2	Equipment Repair Notice - Applicable Usage
69-10-01-04	Registration of New Devices - Moving Existing Devices [Repealed]
69-10-01-04.1	Variance Permit Requests
69-10-01-04.2	Split-Weigh Variance Permit Requests
69-10-01-05	Rejected Devices
69-10-01-05.1	Inactive Weighing or Measuring Devices
69-10-01-06	Liquefied Petroleum Gas Meters [Repealed]
69-10-01-06.1	Liquefied Petroleum Gas Meters - Temperature Compensation
69-10-01-07	Sale of Liquid Fuels on Other Than Gross Volume Basis Prohibited [Repealed]
69-10-01-08	Assisting Inspector
69-10-01-09	Bulk Liquid Fuel Meters [Repealed]
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69-10-01-09.2	Bulk Liquid Fuel Meters - Marking
69-10-01-09.3	Bulk Liquid Fuel Meters - Design Use
69-10-01-10	Examination of Records
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69-10-01-13	Enforcement
69-10-01-14	Inspection and Testing Accessibility
69-10-01-15	Devices Taken Out of Service
69-10-01-16	Service Contracts
69-10-01-17	Manufacturer Design Deviations and Limitations

**69-10-01-01. Definitions.** As used in article 69-10:

1. "Automatic bulk weighing system" means a weighing system which weighs grain in successive drafts, automatically records the no-load and loaded weight values, and accumulates the net weight of each draft.
2. "Batching scale" means a noncommercial weighing or measuring device used to determine, in part, the amount of an ingredient in a finished, manufactured commodity.
3. "Certify" means to seal, if upon testing and inspection, a weighing or measuring device is within the permitted tolerance and properly installed.
4. "Commerce" means the distribution or consumption of quantities, things, produce, commodities, or articles which may be offered or submitted by any person for sale or hire.
5. "Equipment repair notice tag" means a tag that allows a device to be operated for sixty days from its inspection date pending correction of cited defects relating to the device or any of its required peripheral equipment. The tag defaults to a rejection tag if the device is not in compliance within sixty days.
6. "Liquid or LPG computing pump" means a device that provides fuel or LPG to a consumer.
7. "NIST" means the United States department of commerce, national institute of standards and technology.
8. "Not sealed" means a sticker or seal applied to a device which has not been inspected and tested, does not meet applicable design or tolerance requirements, or is no longer being used commercially. A device that is not sealed shall not be used in commerce.
9. "Random testing" means the random retesting and recertification by a weights and measures inspector of any weighing or measuring device being tested under the self-certification rules.
10. "Registered service person" means a person or agency authorized by the commission to remove an official rejection seal placed on a weighing or measuring device or to repair and certify weighing and measuring devices described in North Dakota Century Code section 64-02-13.
11. "Rejected for repair" means a sticker or seal applied to a device which has been inspected and tested and does not meet applicable design or tolerance requirements. A device that is rejected for repair shall be modified or repaired by a registered service person within thirty days of

**CHAPTER 69-09-09  
WIND TURBINE DECOMMISSIONING**

Section	
69-09-09-01	Definitions
69-09-09-02	Decommissioning Responsibility
69-09-09-03	Useful Life
69-09-09-04	Decommissioning Period
69-09-09-05	Decommissioning Requirements
69-09-09-06	Decommissioning Plan
69-09-09-07	Existing Facilities
69-09-09-08	Financial Assurance
69-09-09-09	Failure to Decommission

**69-09-09-01. Definitions.**

1. "Commercial wind energy conversion facility" means a wind energy conversion facility of equal to or greater than five hundred kilowatts in total nameplate generating capacity.
2. "Commission" means the public service commission.
3. "Wind turbine" means a wind turbine of equal to or greater than five hundred kilowatts in total nameplate generating capacity.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-02. Decommissioning responsibility.** The owner or operator of a commercial wind energy conversion facility is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-03. Useful life.** A commercial wind energy conversion facility or individual wind turbine is presumed to be at the end of its useful life if the facility or turbine generates no electricity for a continuing period of twenty-four months. The presumption may be rebutted by submitting to the commission for approval a plan outlining the steps and schedule for returning the commercial wind energy conversion facility or wind turbine to service.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-04. Decommissioning period.** The facility owner or operator shall begin decommissioning a commercial wind energy conversion facility or wind turbine within eight months after the time the facility or turbine reaches the end of its useful life, as determined in section 69-09-09-03. Decommissioning must be completed within eighteen months after the facility or turbine reaches the end of its useful life.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-05. Decommissioning requirements.** Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, and overhead cables; removal of underground cables to a depth of twenty-four [60.96 centimeters] inches; removal of foundations, buildings, and ancillary equipment to a depth of three feet [91.44 centimeters] and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy conversion facility or wind turbine. The site must be restored and reclaimed to the same general topography that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine and with topsoil respread over the disturbed areas at a depth similar to that in existence prior to the disturbance. Areas disturbed by the construction of the facility and decommissioning activities must be graded, topsoiled, and reseeded according to natural resource conservation service technical guide recommendations and other agency recommendations, unless the landowner requests in writing that the access roads or other land surface areas be retained.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-06. Decommissioning plan.** Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file for commission review the estimated decommissioning cost per turbine, in current dollars at the time of filing, for the proposed facility or turbine and a comprehensive decommissioning plan that describes any expected effect on present and future natural resource development and how the facility or turbine owner or operator plans to pay for decommissioning the facility or turbine as required by section 69-09-10-05 at the appropriate time. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

**History:** Effective October 1, 2008; amended effective October 1, 2010.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-07. Existing facilities.** Owners and operators of existing commercial wind energy conversion facilities shall file with the commission the information required in section 69-09-09-06 within one year after July 1, 2008.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-08. Financial assurance.** After the tenth year of operation of a commercial wind energy conversion facility or wind turbine, the commission by order may require the owner or operator to secure a performance bond, surety bond, letter of credit, corporate guarantee, or other form of financial assurance that is acceptable to the commission to cover the anticipated costs of decommissioning the commercial wind energy conversion facility or turbine. The commission may accept a corporate guarantee if the corporation has a tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater; or if it has an investment grade current rating for its most recent bond issuance of "Baa" or higher as issued by Moody's Investors Service "BBB" or higher as issued by Standard and Poor's Corporation, or an equivalent rating by any other nationally recognized statistical rating organization, as defined and approved by the United States securities and exchange commission.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**69-09-09-09. Failure to decommission.** If the commercial wind energy conversion facility owner or operator does not complete decommissioning, the commission may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the commission may take such action as may be necessary to decommission a commercial wind energy conversion facility or wind turbine, including the exercise by the commission, commission staff, and their contractors of the right of ingress and egress for the purpose of decommissioning the commercial wind energy conversion facility.

**History:** Effective October 1, 2008.

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27

**CHAPTER 69-10-03  
STANDARDS**

Section	
69-10-03-01	National Institute of Standards and Technology (NIST) Handbook No. 44
69-10-03-01.1	National Institute of Standards and Technology (NIST) Handbook No. 44 - NTEP - Exceptions
69-10-03-01.2	National Institute of Standards and Technology (NIST) Handbook No. 105-1 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Class F Field Standard Weights
69-10-03-01.3	National Institute of Standards and Technology (NIST) Handbook No. 105-3 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Graduated Neck-Type Volumetric Field Standards
69-10-03-01.4	National Institute of Standards and Technology (NIST) Handbook No. 105-4 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Liquefied Petroleum Gas and Anhydrous Ammonia Liquid Volumetric Provers
69-10-03-02	Adequate Standards
69-10-03-03	Master Test Weights and Prover Tanks [Repealed]
69-10-03-04	Enforcement [Repealed]
69-10-03-05	Weight Carts [Repealed]
69-10-03-06	Metrology Service [Repealed]
69-10-03-07	Delivery of Standards for Certification [Repealed]
69-10-03-08	Rejection of Standards

**69-10-03-01. National institute of standards and technology (NIST) Handbook No. 44.** Except as modified in this article, the specifications, tolerances, tests, and other technical requirements for commercial weighing and measuring devices in North Dakota must conform to the following sections and subsections of the 1999 edition of the United States department of commerce, NIST Handbook No. 44, which is adopted by reference: all of section 1, section 2 (except subsection 2.24), all of subsection 3.30, subsection 3.31 (except S.1.1.1., UR.2.2., and UR.2.3.), subsection 3.32 (except UR.2.5. and UR.2.6.), and all of subsections 3.33, 3.35, and 3.37. In the event of a conflict between the NIST Handbook No. 44 and North Dakota laws and rules, North Dakota laws and rules shall prevail. Copies of the handbook may be obtained from:

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**History:** Amended effective October 1, 1988; December 1, 1990; February 1, 1992; August 1, 1993; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; October 1, 1999; August 1, 2000; January 1, 2002; May 1, 2005.

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

**Law Implemented:** NDCC 64-02-07

**69-10-03-01.1. National institute of standards and technology (NIST) Handbook No. 44 - NTEP - Exceptions.** North Dakota may consider the requirements of the national type evaluation program (NTEP) referenced within any edition of NIST Handbook No. 44 adopted by this state, but shall not require NTEP certification as a prerequisite for the design, sale, installation, operation, and certification of a commercial device.

**History:** Effective January 1, 2002.

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

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

**69-10-03-01.2. National institute of standards and technology (NIST) Handbook No. 105-1 - Specifications and tolerances for reference standards and field standard weights and measures - Specifications and tolerances for class f field standard weights.** The specifications, tolerances, and other technical requirements for reference standards and field standards used for testing commercial weighing and measuring devices in North Dakota shall conform to the sections and subsections of the 1990 edition of the United States department of commerce, NIST Handbook No. 105-1, which is adopted by reference. In the event of a conflict, North Dakota laws and other administrative rules shall prevail. Copies of the handbook may be obtained from:

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**History:** Effective March 1, 2003.

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

**Law Implemented:** NDCC 64-02-03

**69-10-03-01.3. National institute of standards and technology (NIST) Handbook No. 105-3 - Specifications and tolerances for reference standards and field standard weights and measures - Specifications and tolerances for graduated neck-type volumetric field standards.** The specifications, tolerances, and other technical requirements for reference standards and field standards used for testing commercial measuring devices in North Dakota shall conform to the sections and subsections of the 1997 edition of the United States department of commerce, NIST Handbook No. 105-3, which is adopted by reference. In the event

of a conflict, North Dakota laws and other administrative rules shall prevail. Copies of the handbook may be obtained from:

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**History:** Effective March 1, 2003.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-03

**69-10-03-01.4. National institute of standards and technology (NIST) Handbook No. 105-4 - Specifications and tolerances for reference standards and field standard weights and measures - Specifications and tolerances for liquefied petroleum gas and anhydrous ammonia liquid volumetric provers.** The specifications, tolerances, and other technical requirements for reference standards and field standards used for testing commercial liquefied petroleum gas and anhydrous ammonia liquid measuring devices in North Dakota shall conform to the sections and subsections of the 1997 edition of the United States department of commerce, NIST Handbook No. 105-4, which is adopted by reference. In the event of a conflict, North Dakota laws and other administrative rules shall prevail. Copies of the handbook may be obtained from:

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**History:** Effective March 1, 2003.  
**General Authority:** NDCC 64-02-03  
**Law Implemented:** NDCC 64-02-03

**69-10-03-02. Adequate standards.** A standard used to certify any commercial weighing and measuring device must be annually certified as traceable by a NIST-recognized metrology laboratory. The commission may extend the twelve-month recertification interval up to fifteen months.

A current legible copy of the certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a NIST-recognized laboratory at least once every five years.
2. The volumetric provers used to certify loading-rack meters must be certified traceable by a NIST-recognized laboratory at least once every three years.

3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.
4. A master meter may not be used as a standard to certify commercial LPG devices.
5. Notwithstanding the other provisions of this section, the commission may require recertification of any standard if upon inspection the physical condition of a standard indicates a need for recertification.

**History:** Amended effective April 1, 1992; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008; October 1, 2010.

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

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

**69-10-03-03. Master test weights and prover tanks.** Repealed effective April 1, 1992.

**69-10-03-04. Enforcement.** Repealed effective May 1, 2005.

**69-10-03-05. Weight carts.** Repealed effective October 1, 2010.

**69-10-03-06. Metrology service.** Repealed effective October 1, 2010.

**69-10-03-07. Delivery of standards for certification.** Repealed effective October 1, 2010.

**69-10-03-08. Rejection of standards.** Standards rejected by a NIST-recognized laboratory must be removed from service as follows:

1. A standard that has been rejected must be conspicuously marked by sealing, tagging, or painting as appropriate to that standard.
2. A rejected standard may not be used to test and certify a commercial weighing and measuring device. The use of a rejected standard may result in commission enforcement action.
3. A standard not meeting appropriate design criteria may be allowed to remain in service for a limited time, provided a variance permit is obtained from the commission prior to certification or recertification.

**History:** Effective May 1, 2005; amended effective July 1, 2008; October 1, 2010.

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

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

**CHAPTER 69-10-04  
SERVICE REGULATIONS**

Section	
69-10-04-01	Registration of Service Persons
69-10-04-01.1	Registration of Service Companies
69-10-04-02	Application for Registration and Permitting of a Service Person
69-10-04-02.1	Self-Certification
69-10-04-02.2	Application for Registration of a Service Company
69-10-04-02.3	Issuing a Placing in Service Permit
69-10-04-03	Revocation of Registration
69-10-04-04	Reports
69-10-04-05	Standardized Report Forms
69-10-04-06	Quality Control - Evaluation
69-10-04-06.1	Quality Control - Failures [Repealed]
69-10-04-06.2	Procedures for Evaluating Work of Registered Service Persons
69-10-04-06.3	Quality Control - Failures
69-10-04-07	Adequate Field Standard Requirements - Exception
69-10-04-08	Devices Taken out of Service [Repealed]

**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.

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Public Utilities - Decommissioning  
Rulemaking

Case No. PU-10-159

**69-09-09-06. Decommissioning plan.** Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file for commission review the estimated decommissioning cost per turbine, in current dollars at the time of filing, for the proposed facility or turbine and a comprehensive decommissioning plan that describes any expected effect on present and future natural resource development and how the facility or turbine owner or operator plans to pay for decommissioning the facility or turbine as required by section 69-09-10-05 at the appropriate time. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

History: Effective October 1, 2008; \_\_\_\_\_  
General Authority: NDCC 28-32-02, 49-02-27  
Law Implemented: NDCC 49-02-27

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
2010 Weights and Measures Rules  
Rulemaking**

**Case No. WM-10-63**

**ARTICLE 69-10**

**TESTING AND SAFETY DIVISION**

Chapter	
69-10-01	Weights and Measures - General
69-10-02	Scales
69-10-03	Standards
69-10-04	Service Registration
69-10-05	Oil and Gas Metering Systems [Repealed]

**CHAPTER 69-10-03  
STANDARDS**

Section	
69-10-03-01	National Institute of Standards and Technology (NIST) Handbook No. 44
69-10-03-01.1	National Institute of Standards and Technology (NIST) Handbook No. 44 - NTEP - Exceptions
69-10-03-01.2	National Institute of Standards and Technology (NIST) Handbook No. 105-1 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Class F Field Standard Weights
69-10-03-01.3	National Institute of Standards and Technology (NIST) Handbook No. 105-3 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Graduated Neck-Type Volumetric Field Standards
69-10-03-01.4	National Institute of Standards and Technology (NIST) Handbook No. 105-4 - Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures - Specifications and Tolerances for Liquefied Petroleum Gas and Anhydrous Ammonia Liquid Volumetric Provers
69-10-03-02	Adequate Standards
69-10-03-03	Master Test Weights and Prover Tanks [Repealed]
69-10-03-04	Enforcement [Repealed]
69-10-03-05	Weight Carts <u>[Repealed]</u>
69-10-03-06	Metrology Service <u>[Repealed]</u>
69-10-03-07	Delivery of Standards for Certification <u>[Repealed]</u>
69-10-03-08	Rejection of Standards

*add October 2010  
Effective date*

**69-10-03-02. Adequate standards.** A standard used to certify any commercial weighing and measuring device must be annually certified as traceable by a NIST-recognized metrology laboratory. The ~~state-metrologist~~ commission may extend the twelve-month recertification interval up to fifteen months.

A current legible copy of the certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a NIST-recognized laboratory at least once every five years.
2. The volumetric provers used to certify loading-rack meters must be certified traceable by a NIST-recognized laboratory at least once every three years.
3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.
4. A master meter may not be used as a standard to certify commercial LPG devices.
5. Notwithstanding the other provisions of this section, the commission may require recertification of any standard if upon inspection the physical condition of a standard indicates a need for recertification.

**History:** Amended effective April 1, 1992; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008; \_\_\_\_\_.

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

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

Save

~~69-10-03-05. Weight carts. Effective January 1, 2002, weight carts not already in service in North Dakota and seeking metrology certification must meet the following design specifications: wheelbase must not exceed sixty inches [152.4 centimeters], motors must be electric or powered by gel core batteries, gross weight must not exceed five thousand pounds [2267.95 kilograms], tires must be of solid rubber with smooth tread, and sealing cavities must be capable of containing twenty pounds [9.072 kilograms] of lead adjustment.~~

~~History: Effective January 1, 2002.~~

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

~~Law Implemented: NDCC 64-02-02~~

~~Repealed effective \_\_\_\_\_.~~

Same

~~60-10-03-06. Metrology service.~~ Metrology service at the commission laboratory will only be provided as set out in this section:

1. ~~All metrology service requests must be by appointment only and will be according to the following:~~
  - a. ~~Testing and safety division metrology;~~
  - b. ~~State-registered service company metrology;~~
  - c. ~~North Dakota law enforcement metrology;~~
  - d. ~~Industrial customer metrology; and~~
  - e. ~~All other metrology.~~
2. ~~The director shall send out annual appointment notifications by mail to all state-registered service companies at least thirty days prior to each company's appointment date.~~
3. ~~If a party with a scheduled metrology appointment needs to cancel that appointment, the party shall notify the commission of the need to cancel at least seven days in advance of the appointment. Appointments cancelled within less than seven days advance notice will lose scheduling priorities. The party canceling a metrology appointment may request a new appointment date at that time.~~
4. ~~A metrology appointment must be scheduled at least thirty days in advance.~~
5. ~~A metrology request not previously scheduled may only be serviced as time becomes available.~~
6. ~~A metrology request for service beyond the scope of the laboratory's recognition level will be referred to an appropriate NIST-recognized metrology laboratory.~~

~~History: Effective May 1, 2005; amended effective July 1, 2008.~~

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

~~Law Implemented: NDCC 64-02-02~~

Repealed effective \_\_\_\_\_.

*Save*

~~69-10-03-07. Delivery of standards for certification. Standards delivered to the metrology laboratory for testing and certification must be submitted undamaged and serviceable and must comply with the following:~~

- ~~1. Vehicle scale test carts must be cleaned and painted with all fluid levels topped off to their calibrated reference levels.~~
- ~~2. Cast iron weights must be cleaned and painted following the requirements in NIST Handbook No. 105-1, section 2, as adopted by reference in section 69-10-03-01.2.~~
- ~~3. Provers and test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
- ~~4. Provers must have a simple, sturdy, and adequate leveling means on the legs allowing for adequate adjustments.~~
- ~~5. Provers must have two level indicators mounted on the body of the prover at right angles to each other for leveling purposes.~~
- ~~6. Mild steel provers must be periodically painted as determined by the metrologist, and as recorded in the remarks section on the previous year's calibration report.~~
- ~~7. Mild steel test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.~~
- ~~8. Class F weights must meet the applicable material and design requirements of NIST Handbook No. 105-1, as adopted by reference in section 69-10-03-01.2.~~
- ~~9. Fabricated weights, brass weights, and cast iron weights equal to or less than ten pounds [4.54 kilograms] may not be used.~~
- ~~10. Laminated weights must not be adjusted and must be removed from service when the weights fail to maintain the applicable tolerance.~~
- ~~11. Volume standards placed in service after January 1, 1998, must meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4.~~
- ~~12. A volume standard placed in service before January 1, 1998, that has maintained annual certification need not meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-~~

- ~~03-01.3 and 69-10-03-01.4, unless a standard has been removed from service for a period greater than twelve months.~~
- ~~13. Special seals or special tools required for the test or calibration, which is of a unique nature to a particular standard, must be supplied by the standard owner prior to the beginning of the metrology process.~~
  - ~~14. If weights greater than one hundred pounds [45.36 kilograms] or provers with capacities greater than fifty gallons [189.27 liters] are shipped to the metrology laboratory, the weights or provers must be shipped on an open flatbed truck or trailer.~~
  - ~~15. Standards that are not in compliance with any of the above requirements will not be accepted for testing and certification.~~
  - ~~16. A standard that is not tested and certified may not be used to test and certify a commercial device unless a variance permit is obtained from the commission, or unless the standards is recertified.~~

~~History: Effective May 1, 2005; amended effective July 1, 2008.~~

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

~~Law Implemented: NDCC 64-02-02~~

~~Repealed effective \_\_\_\_\_.~~

**69-10-03-08. Rejection of standards. ~~Rejected standards~~ Standards rejected by a NIST-recognized laboratory must be removed from service as follows:**

1. A standard that has been rejected must be conspicuously marked by sealing, tagging, or painting as appropriate to that standard.
2. A rejected standard may not be used to test and certify a commercial weighing and measuring device. The use of a rejected standard may result in commission enforcement action.
3. A standard not meeting appropriate design criteria may be allowed to remain in service for a limited time, provided a variance permit is obtained from the commission prior to certification or recertification.

**History:** Effective May 1, 2005; amended effective July 1, 2008; \_\_\_\_\_.

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

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

**CHAPTER 69-10-04  
SERVICE REGULATIONS**

Section	
69-10-04-01	Registration of Service Persons
69-10-04-01.1	Registration of Service Companies
69-10-04-02	Application for Registration and Permitting of a Service Person
69-10-04-02.1	Self-Certification
69-10-04-02.2	Application for Registration of a Service Company
69-10-04-02.3	Issuing a Placing in Service Permit
69-10-04-03	Revocation of Registration
69-10-04-04	Reports
69-10-04-05	Standardized Report Forms
69-10-04-06	Quality Control - <del>Witnessing</del> <i>Evaluation</i>
69-10-04-06.1	Quality Control – Failures [ <del>Repealed</del> ]
69-10-04-06.2	Procedures for the <del>Quality Control</del> of Registered Service Persons <i>^Evaluating Work</i>
<u>69-10-04-06.3</u>	<u>Quality Control – Failures</u>
69-10-04-07	Adequate Field Standard Requirements - Exception
69-10-04-08	Devices Taken out of Service [ <del>Repealed</del> ]

**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 ~~in Bismarck, North Dakota,~~ 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; \_\_\_\_\_.

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

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

**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 ~~testing and safety division director~~ 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; \_\_\_\_\_.

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

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

**69-10-04-06. Quality control – Witnessing 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 shall 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.

~~The quality control evaluation must be completed within forty-five days of the date the work is completed by the registered service person and at no charge to the owner of the device.~~

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

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

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

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~~69-10-04-06.1. Quality control -- Failures. Quality failures must include the outcome of any actual quality control inspections and tests, and any violations of title 64 of the North Dakota Century Code, title 69 of the North Dakota Administrative Code, 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 either a verbal warning or a formal warning letter requiring remedial action within thirty days from the date of the warning;~~
- ~~2. Schedule a conference with the division director or chief inspector, the registered service person, and that person's supervisor;~~
- ~~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; and~~
- ~~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 individual permitholder's company or to the owner or operator of the affected device.~~

~~Any quality control failures and associated enforcement actions must be kept on file as part of the overall quality control profile of the registered service person for a twelve-month period from the date of the failure.~~

~~History: Effective October 1, 1999; amended effective May 1, 2006.~~

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

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

~~Repealed effective \_\_\_\_\_.~~

69-10-04-06.2. Procedures for the ~~quality control of~~ <sup>g</sup> evaluating work of <sup>e w/s only</sup> 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. ~~Quality control inspection selection~~ Selection criteria is as follows includes:

a. <sup>g o/s only</sup> ~~Established by permitholder number;~~

b. ~~Set at one percent, or one placing in services, of average annual production;~~

<sup>g</sup> ~~ca.~~ Location of the device versus 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 (100) will be evaluated on one of every (100) devices tested;

dc. Each permitholder registered service person whose annual production device testing total is less than twenty one hundred will be placed into a special pool of which ten percent will have a quality control performed each year assigned a trigger quality control level related to the number of total devices tested the previous year; and

ed. ~~Average annual production must be based upon the previous inspection year totals~~ Receipt of a complaint.

2. A permanent permitholder registered service person who receives multiple quality control inspections within a twelve-month period because of the holder has logged a large number of devices tested placing in services, and; has received not failed a "pass" 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 placing services devices tested requires a third quality control inspection for which the holder registered service person receives a "pass" does not fail, the fourth scheduled quality control inspection will again be an "honorary pass".

<sup>g o/s only</sup> ~~The quality control inspection may be based upon the applicable tolerance, acceptance or maintenance tolerance, or design requirements that are applicable to the device.~~

4. ~~The quality control inspection must be completed within forty five days from the date of the permitholder's test report.~~

- <sup>9</sup>  
~~53.~~ A specific quality control inspection ends when the tested device either fails a portion of the inspection or it passes the inspection.
- ~~64.~~ If When a device fails a quality control inspection, the ~~failed quality control failure~~ is will be documented for that ~~permitholder~~, the device is will be rejected, and a follow-up quality control inspection ~~must will be~~ conducted as soon as practicable ~~on the next device placed into service by the permitholder responsible for the previous quality control failure.~~
- ~~7.~~ At the discretion of the division director, ~~weights and measures inspectors may conduct quality control inspections of self-certifying permitholders either by performing a test on that holder's device or by witnessing the testing of a device by the self-certified permitholder.~~

**History:** Effective May 1, 2005; \_\_\_\_\_.

**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 Chapter 64-03 of the North Dakota Century Code, Chapter 69-10-03 of the North Dakota Administrative Code, 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 \_\_\_\_\_.

General Authority: NDCC 64-02-03

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