

## Memo

TO: Licensed Businesses with Commercial Devices  
FROM: New Hampshire Division of Weights and Measures  
DATE: September 25, 2013  
RE: **Commercial v. Non-Commercial Devices**

### Commercial v. Non-Commercial Devices<sup>1</sup>

Please be advised that the Division of Weights and Measures (“Division”) is issuing this memorandum to all businesses with commercial devices as clarification of the Division’s laws and administrative rules for the requirements of licensing and certifying commercial devices including scales, gas pumps and other metered devices. This memo also emphasizes important differences between commercial and non-commercial devices.

#### **Commercial use versus non-commercial use:**

- A. **Commercial use** is defined as “weights and measures used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, commodities, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight, measure, or count...” See RSA 438:1, XII. For example, devices used commercially include, but are not limited to, the following: cash register scales, deli scales used in direct sales, candy scales used in direct sales, farm stand scales, vehicle scales, retail motor fuel devices, vehicle tank meters, and LPG meters.
- B. **Please note:** “**Commercial use does not include** the determination of the weight, measure, or count of any commodity or thing which is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing.” See RSA 438:1 XII. For example, the following are non-commercial uses: pre-packaging scales, vehicle scales used for inventory, and gas pumps for company vehicles.

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<sup>1</sup> This memo is not a complete representation of the Division of Weights and Measures’ (“Division”) administrative rules but is solely for educational purposes. For a complete and official version of the Division’s administrative rules please see: [www.gencourt.state.nh.us/rules/state\\_agencies/agr1400.html](http://www.gencourt.state.nh.us/rules/state_agencies/agr1400.html). For additional information, please contact the Division at (603) 271-3700.

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# New Hampshire

Department of Agriculture,  
Markets & Food

Lorraine S. Merrill, Commissioner

**C. Legal-for-Trade scales:**

- i. Shall have an NTEP Certificate of Conformance if manufactured after January 1, 2003 (see current NIST Handbook 44); and
- ii. If the scale was manufactured prior to January 1, 2003 see Scale Code 2.20 in NIST Handbook 44, 2013, or current year).

**D. Legal-for-trade scales used for non-commercial purposes:**

- i. If an owner of a non-commercial device that is a legal-for-trade device (see above) wishes to license and certify the device, a Placed-In-Service report shall be completed in accordance with the Division's administrative rules and sent to the Division. See Agr 1405.28 Certification Seal Reporting.
- ii. A legal-for-trade device (i.e., it has an NTEP certificate) that is used for a non-commercial purpose such as for pre-packing, inventory, or part of a manufacturing process, may be licensed and certified at the owner's request. See Agr 1407.13 Voluntary Licensing of Pre-pack and Factory Scales.

**E. A non-commercial device that is not a legal-for-trade device** (i.e., there is no NTEP certificate), shall not be licensed or certified. However, if the device owner would like it tested, the service technician may place his or her own sticker on the device, but not the State's certification stamp. Additionally, no Placed-In-Service reports shall be sent to the Division.

**F. Commercial devices that are not legal-for-trade**

- i. For commercial devices that are not legal-for-trade, please contact the Division at (603) 271-3700 or (603) 271-3709; and
- ii. If the scale was manufactured prior to January 1, 2003 see Scale Code 2.20 in NIST Handbook 44, 2013, or current year).

Please contact the Division with any questions at (603) 271-3700.