

Virginia Department of Agriculture and Consumer Services

Division of Consumer Protection - Office of Weights and Measures

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TECHNICAL BULLETIN

Bulletin number: 2020-01

Subject: Electric Vehicle Service Equipment (EVSE)

Issue date: November 15, 2020

Expiration date: For Handbook 44 provisions, three years from publication of the approved EVSE provisions in Handbook 44. For Handbook 130 provisions, January 1, 2024.

Purpose:

Pursuant to the Governor's authority to formulate policies of the executive branch as prescribed in Section 2.2-103(A) of the Code of Virginia, the Northam Administration has directed the Virginia Department of Agriculture and Consumer Services (VDACS) to delay enforcement of certain provisions of the National Institute of Standards and Technology (NIST) Handbook 44 and Handbook 130, as they pertain to businesses offering electric vehicle service equipment to the public for the retail sale of electricity to be used for vehicle fuel.

Background:

VDACS Office of Weights and Measures protects buyers and sellers by ensuring the accuracy of devices used in commercial transactions to weigh and measure commodities.

EVSEs are those devices, accessories, and systems used for the measurement of electricity dispensed in vehicle fuel applications wherein a quantity determination or statement of measure is used wholly or partially as a basis for sale or upon which a charge for service is based.

In accordance with the Virginia Weights and Measures Law (Va. Code § 3.2-5600 *et seq.*) and the Virginia Weights and Measures Service Agencies and Technicians Law (Va. Code § 3.2-5700 *et seq.*), the Commissioner of Agriculture and Consumer Services (Commissioner) has regulatory authority over commercial weighing and measuring devices used in the sale of commodities in the Commonwealth. In order to provide protection for both the buyer and seller, any weighing or measuring device used in a commercial transaction of a commodity in the Commonwealth must meet the requirements of the Virginia Weights and Measures Law and the Virginia Service Agencies and Technicians Law.

Sellers of electricity for use as fuel in electric vehicles are using EVSEs to provide a measured amount of a commodity (electricity) to buyers. Therefore, sellers of this electricity must use devices that meet requirements of the Virginia Weights and Measures Law and the Virginia Weights and Measures Service Agencies and Technicians Law.

Relevant Laws and Regulatory Authority

Virginia Weights and Measures Law

The Virginia Weights and Measures Law defines "weights and measures" as all weights and measures of every kind, including instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices.

Section 3.2-5609 of the Weights and Measures Law (i) requires the Commissioner to inspect and test on a periodic basis as he deems necessary certain weights and measures commercially used to ascertain if they are correct and (ii) authorizes the Commissioner, when not otherwise provided by law, to inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale.

Section 3.2-5620 of the Weights and Measures Law adopts the specifications, tolerances, and regulations for commercial weighing and measuring devices, as recommended by the National Institute of Standards and Technology (NIST) and published in NIST Handbook 44, as the specifications, tolerances, and regulations for commercial weighing and measuring devices in the Commonwealth. Therefore, all commercial weighing and measuring devices used in Virginia are required to conform to the specifications, tolerances, and regulations contained in NIST Handbook 44, unless specifically modified, amended, or rejected by regulations issued by the Board of Agriculture and Consumer Services. Handbook 44 currently includes requirements pertaining to EVSEs; however, these requirements are tentative and need final approval of the National Conference on Weights and Measures (NCWM).

Section 3.2-5622 of the Weights and Measures Law also applies to the method of sale of commodities in the Commonwealth under the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the NCWM and published in NIST Handbook 130, "Uniform Laws and Regulations." Therefore, all commodities offered for sale in the Commonwealth must be sold in accordance with the *Uniform Regulation for the Method of Sale of Commodities* contained within NIST Handbook 130. Any commodity not sold in conformance with Handbook 130 does not comply with the Weights and Measures Law.

Virginia Weights and Measures Service Agencies and Technicians Law

Section 3.2-5700 defines a "service agency" as a (i) a business; or (ii) that portion of a government or political subdivision engaged in the adjustment, installation, placing in service, recommending for use, reconditioning, repairing, servicing, or selling of any weight or measure commercially used or employed (a) in establishing the size, quantity, extent, area, or measurement of quantities, things, products, or articles for distribution or consumption, purchased, offered, or submitted for

sale, hire, or award, or (b) in computing any basic charge or payment for services rendered on the basis of something's weight or its measure.

Section 3.2-5700 defines a “service technician” as any individual who for hire, award, commission, or any other payment of any kind, adjusts, installs, places in service, recommends for use, reconditions, repairs, services, or sells a commercial weight or measure.

Section 3.2-5703 requires all service agencies that wish to operate in the Commonwealth of Virginia to obtain a registration issued by the Commissioner on an annual basis.

Section 3.2-5707 requires all service technicians that wish to service weights and measures equipment in the Commonwealth to obtain a registration issued by the Commissioner on an annual basis.

Section 3.2-5711 requires that within five business days after its service technician has placed in or restored to service a weight or measure, a service agency shall provide to the Commissioner a fully executed Placed into Service Report. The service agency shall provide a copy of the fully executed Placed into Service Report to the owner or operator of the weight or measure and shall retain for a period of one year, reckoned from the date of execution, a copy of the fully executed Placed into Service Report, which is subject to inspection by the Commissioner.

Compliance with provisions of the Virginia Weights and Measures Law (Handbook 44 and Handbook 130):

VDACS will delay enforcement of the EVSE requirements and regulations in Handbook 44 and Handbook 130. Enforcement of the provisions of Handbook 44 pertaining to EVSEs will be delayed until three years after the EVSE requirements and regulations become final. This includes the delayed enforcement of the National Type Evaluation Program (NTEP) certification requirement for EVSEs. As the method of sale of electricity in Handbook 130 has already been approved by NCWM, all EVSEs must comply with the method of sale provisions in Handbook 130 by January 1, 2024.

Enforcement of the Virginia Weights and measures Law and corresponding regulations, as they pertain to EVSEs, will begin as follows:

- Handbook 44 - All devices already installed and those devices installed from the effective date of this technical bulletin must comply with EVSE provisions of Handbook 44 within three-years from the date the regulations are published in Handbook 44.
- Handbook 130 - All devices already installed and those devices installed from the effective date of this technical bulletin must comply with EVSE provisions of Handbook 130 by January 1, 2024. Currently, Handbook 130 requires that all electrical energy kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be in units in terms of the megajoule (MJ) or kilowatt-hour (kWh).

Compliance with the Virginia Weights and Measures Service Agencies and Technicians Law for those businesses wishing to place electric vehicle service equipment into service in the Commonwealth:

While the EVSE requirements established in Handbook 44 and Handbook 130 will be delayed as described above, the requirements of the Weights and Measures Service Agencies and Technicians Law will be enforced immediately upon service agencies and service technicians that place EVSEs into service.

Va. Code § 3.2-5703 requires those businesses placing weights and measures devices into service to register with VDACS Office of Weights and Measures. Therefore, companies must be registered as services agencies before placing EVSEs into service in the Commonwealth. Va. Code § 3.2-5707 requires every service technician employed by a registered service agency to obtain certification issued by the Commissioner before operating in the Commonwealth. This provision will be enforced immediately.

Va. Code § 3.2-5711 requires that a Placed into Service Report be furnished to the Office of Weights and Measures for each device placed in the Commonwealth. This provision is necessary in order for the Office to know where each EVSE is located and will be enforced immediately.

Interim Recommendations:

Although VDACS has delayed the enforcement of certain provisions relating to EVSEs in Virginia, industry stakeholders and those companies manufacturing or selling these devices should take steps immediately to begin complying with the tentative provisions in Handbook 44 and the current approved method of sale in Handbook 130. VDACS will begin enforcement immediately upon the expiration of the dates listed above. Over the next three years, VDACS will work with industry stakeholders to answer any questions that may arise as businesses work to bring devices into compliance.

If you have questions regarding this bulletin, contact Mr. Gary Milton, Weights and Measures Program Manager, at (804) 786-1274 or via e-mail at Gary.Milton@vdacs.virginia.gov.