

# Obstruction of Inspections

*Effective Date: January 31, 2013*







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## Background

What is the proper procedure for handling regulated businesses that hinder inspection?

The duty of weights & measures is to determine the status of compliance by those regulated through programs of inspection and investigation. On occasion merchants have hindered inspections.

Authorized agents of the department and City Sealers are given specific enforcement authority to successfully execute the duties of their position.

-  [NIST Handbook 44 G-UR.2.3.](#)
-  [Wis. Stats. 93.08](#)
-  [Wis. Stats. 98.03\(2\)](#)
-  [Wis. Stats. 98.05\(2\)](#)
-  [Wis. Stats. 98.26\(1\)\(a\)](#)
-  [ATCP 92.02\(1\)](#)

## Statement

Wisconsin law requires the following below:

[Wis. Stats. -93.08 Access for law enforcement.](#) In performing their duties or in enforcing the laws entrusted to their administration, the department and its authorized agents may do all of the following:

- (1) Enter, within reasonable hours, any field, orchard, garden, packing ground, building, freight or express office, warehouse, car, vessel, vehicle, room, cellar, storehouse, cold storage plant, packing house, stockyard, railroad yard or any other place of business, which it may be necessary or desirable for them to enter.
- (2) Open any box, carton, parcel, package or other receptacle, inspect the contents thereof, and, upon payment or tender of the market value, take samples of any product or material contained therein.
- (3) Inspect products and materials and collect and test samples of them.

The following links are additional State and Federal rules where additional enforcement authority can be referenced:

- [HB-44, G-UR.2.3.-Accessibility for Inspection, Testing, and Sealing Purposes, 2011 edition](#)
- [ATCP 92.02\(1\) -Weighing and measuring devices; general requirements.](#)
- [Wis. Stats. - 98.03\(2\) State standards; specifications and tolerances.](#)
- [Wis. Stats. - 98.05\(2\) Enforcement authority; measurement center laboratory.](#)
- [Wis. Stats. - 98.26\(1\)\(a\) Prohibited acts; penalty; injunction.](#)

## Procedure

In general, inspections performed by weights & measures officials are routine. However, some inspections involving devices such as VTM or LPG meters require planning and coordination of

schedules. Missed inspections of any kind can adversely affect the completion of inspection time tables, as well as the possibility of performing timely, billable re-inspections of those devices that fail initial testing. The following procedure will assist the weights & measures official in handling a merchant who obstructs inspection.

- 1) It is the responsibility of the inspector to schedule their appointments. When scheduling inspections prior to test dates, explain the plan and purpose of your visit (i.e. routine, complaint or specific device inspection).
- 2) Arrive at your appointments on time. For all inspections (scheduled or routine), always have available department issued identification badges and business cards upon arrival. Dress appropriately for the type of inspection you will perform during the visit.
- 3) If you experience hindrance of inspection you should follow these steps:
  - a. Leave the site.
  - b. Document the name of the individual(s) hindering your inspection and any pertinent statements made.
  - c. Notify your immediate supervisor—if not available, follow your specific chain of command.
  - d. Discuss a site specific plan of action.
  - e. Record the events of the day in a field inspection report.
  - f. Follow jurisdictional enforcement actions. For example:
    - i. send a Warning Letter
    - ii. conduct a Compliance Conference
    - iii. attain an Assurance of Discontinuance
- 4) For the subsequent site visit, the weights & measures official may be accompanied by a law enforcement agent. Each future visit will be discussed on a case by case basis with your immediate supervisor.