

ITALO S. CAPPABIANCA
STATE REPRESENTATIVE

□ ROOM 30, EAST WING
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 787-4358
FAX: (717) 783-0681

□ DISTRICT OFFICE:
1216 WEST 26TH STREET
ERIE, PENNSYLVANIA 16508-1520
PHONE: (814) 453-7639
FAX: (814) 871-4713
E-MAIL: ITALO@MOOSE.ERIE.NET
HOME PAGE: MOOSE.ERIE.NET/~ITALO



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

November 24, 1998

COMMITTEES

AGRICULTURE AND RURAL AFFAIRS,
DEMOCRATIC CHAIRMAN

CAUCUSES

NORTHWEST CAUCUS

STAFF

STEVEN CRAWFORD
SENIOR ADVISOR TO THE CAUCUS/COMMITTEE
LYNN SLABICKI
RESEARCH ANALYST

Charles M. Bruckner, Director
Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, Pennsylvania 17110

ORIGINAL: 1990
HARBISON
COPIES: McGinley
Nanorta
Harris
Sandusky
Legal
Notebook

Dear Mr. Bruckner:

As Democratic Chairman of the House of Representative's Agriculture and Rural Affairs Committee I have carefully reviewed the Proposed Rulemaking of the Weights, Measures and Standards (2-111). After reviewing the proposed rulemaking I recognize the tremendous effort and hard work put forth by the Department to address all concerns. However, I would like to comment on some problems in the proposed regulations, which I believe should be brought to your attention.

Overall, I support the proposed rulemaking developed by the Department, however I would like to bring to your attention some minor changes which if implemented would allow for further clarification of Regulation # 2-111. First and foremost I believe that it is important that the Department specifically state the allowance of an "in-house" or "self" inspection by the private sector. Upon reviewing Act 155 of 1996 (The Consolidated Weights and Measures Act) it is obvious that the legislative intent of this act is for the allowance of "in-house" inspections through the private certification program. It is necessary that Regulation #2-111 accurately reflect the legislative intent of Act 155 of 1996 by clearly stating the allowance for such "in-house" inspections, clarification would also prevent the arduous task of revisiting this issue in the future.

The following are a few additionally changes which would provide further clarification of these regulations.

Section 2.1 Definitions

There are several references in the regulations to the term "commercially used" (§ 4.3 Authority of a CEWM, §5.1 Purpose etc.). This term should be defined to prevent confusion.

Section 4.13 (a) Inspection report form required

It is unclear whether the department will be creating a uniform inspection report form or whether the CEWM may use their own form. For reporting and uniformity reasons the department should create a specific form to be used for this purpose. In the end will save time when compiling the data collected.

Section 4.14 (a) Random inspection and testing

I would concur that the department should do random inspections of devices inspected by CEWM's. It is also very important that the Department randomly inspect a **statistical sample of each type of device** to accurately reflect if reporting inadequacies by CEWM's are occurring. Not only will this form of sampling (a statistical percentage) reflect any problems with inspections by CEWM's but will also reflect the integrity of these inspections.

Section 5.15 (a) Basis for action

Why is this suspension or revocation of a UPC/PLU Inspector's Certificate applicable only for a private certification program?

Section 6.2 (b) Exception

Why are UPC/PLU devices exempt from registration requirements by sellers, installers, servicers or repairers? Wouldn't this information be helpful to department in determining the correct number of devices in Pennsylvania and subsequently whether or not the Department is adequately inspecting these devices?

Section 6.6 (d) Conditional short-term use

Why is the owner of the device punished for inadequacy of the inspectors? If the owner of device has complied with all provisions of the act and an inspector fails to do their job within the allotted time, the owner should not be penalized (remove their device from commercial use) for another's inactivity.

Section 7.5 (a) Obtaining a registration form

I would urge the department to work on quickly developing a department weighing or measuring device registration form. The creation of a standardized form will expedite the data compilation phase.

Section 9.11 (d) Computer generated, typewritten or indelible pencil

Change the term "made out in" to "completed with".

Section 10.8 (b) UPC scanning systems and PLU devices

The department should specify notification requirements (displaying the certificate) for certificates issued. Proper display of such certificates would prevent duplicate inspections by inspectors.

Again, I would like to commend the Department on their hard work toward the completion of the proposed rulemaking and I thank you for the opportunity to submit comments on these regulations. If you have any questions regarding these comments please feel free to contact my office.

Sincerely,



Italo S. Cappabianca

ISC/ls