Regulatory Analysis	Forn	This space for use by IRRC
(1) Agency		2005 APR 20 AH 10: 33
Department of General Services and Department of Agriculture		REVIEW COMMISSION
(2) I.D. Number (Governor's Office Use) 008-009		IRRC Number: 2478
(3) Short Title		
Metrology Calibration and Testing Fees		•
(4) PA Code Cite	(5) Agency	Contacts & Telephone Numbers
70 Pa. Code Chapters 2, 10 and 110		Contact: Mary Benefield Seiverling, Department Services, (717) 772-2749
		ary Contact: Dwight-Jared Smith, Department of (717) 787-8744
(6) Type of Rule Making (Check One)		(7) Is a 120-Day Emergency Certification Attached?
 ☑ Proposed Rule Making ☐ Final Order Adopting Regulation ☐ Final Order, Proposed Rule Making Omitted 	Final Order Adopting Regulation	
(8) Briefly explain the regulation in clear and nonted	chnical langu	age.
each service which the Act authorizes that fees be	charged and	ry), enlarges the regulatory authority to charge fees to establishes a schedule of fees that the Department of a, type evaluation and other services performed by the

(9) State the statutor	ry authority for the reg	ulation and any relev	ant state or federal court dec	risions.
Act of Dec. 18, 1990	6 , P.L. 1028, No. 155,	3 Pa.C.S. §§ 4110, 4	178 and 4190 (the Act).	
				.*
		Regulatory Analy	ysis Form	<u> </u>
law, case or regulatio	on, and any deadlines fo	ral or state law or co or action.	urt order, or federal regulati	
metrology laboratory		lluation, and any ot	f General Services shall c her testing services, and s	
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			•	
74 A S	111		TTT '- Ale l.1	. 11
			ation. What is the problem	
The regulation will all the parties who are rec		th to shift the cost o	f performing these testing	services from taxpayers w
·	•			
(12) State the public he	ealth, safety, environme	ental or general welf	are risks associated with no	nregulation.
Failure to adopt regula	tions will prevent the C	Commonwealth from	charging and collecting for	r these services.
·	·			

	who will benefit from the people who will benefit.)		benefits as completely as possible a	and approximate
	-		f will concents	
Ine Commonw	/eaith will denetit from the	e additional revenue that the	le lees will generale.	
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		•		
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· · · · · · · · · · · · · · · · · · ·		Regulatory Analysis	Form	····
		cted by the regulation. (Quantum ho will be adversely affected	antify the adverse effects as completed.)	tely as possible
and measuring of free of charge. I private persons,	devices will be charged for Last year the Laboratory part of the world be charged for the char	ees according to the propo provided approximately 74 ees under the proposed rul	d repairing various types of commonsed fee schedule for services previous services including services to applemaking. Based upon last year's of the proposed fee schedule.	ously provided roximately 400
	, -			
				· . •
	sons, groups or entities the rill be required to comply.)		ply with the regulation. (Approxim	ate the number
			d repairing various types of comme occuracy of their field standards mu	
imidally.				
				. ,
	e communications with an and/or groups who were in		n the development and drafting of	the regulation.
The proposed fee by the DGS Bures		survey of similar fees ch	arged by approximately 14 other st	ates conducted
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			•	

	specific estimate of tegal, accounting or co				y associated wit	h compliance,
	fees that would be cher average \$262.50 (\$		o the regulated	community is \$105	,000.00. The est	imated annual
·				•		
		Regulato	ry Analysis I	orm .		
	pecific estimate of the nting or consulting pro-	costs and/or sav	ings to local go	vernments associat	ed with complian	nce, including
There are no new	v costs or savings to le	ocal government	s associated wit	th compliance with	the proposed reg	ulation.
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There would be no new cos \$105,000.00.	ts to state government.	The estimated a	nnual revenue to	state governmen	t from the fees is
4103,000.00.					
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Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated	\$105,000	\$105,000	\$105,000	\$105,000	\$105,000	\$105,000
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

We estimated that Laboratory spent 1400 hours in 2002 performing services on commercial equipment for which the Laboratory will be able to charge. If we multiply 1400 hours by \$75.00, we anticipate revenue of \$105,000 a year.

		egulatory Analysis		
(20b) Provide the past the	hree-year expenditure l	nistory for programs	affected by the regulatio	n.
Program	FY -3	FY -2	FY -1	Current FY
			·	
(21) Using the cost-ber adverse effects and costs		ided above, explain	how the benefits of the	ne regulation outweigh the
This merely effectuates t	the legislative mandate	to charge user of thi	s service.	
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easons for their dismissa V/A	1.			
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23) Describe alternative asons for their dismissal		onsidered and the c	osts associated with the	ose schemes. Provide the
/A				
/A				
/A				

(24) Are there are and the compelling.		at are more strip	ngent than federal st			
	no Pennsylvania				identify the sp	ecifics provision
No.	ng i cilitoj i vanta	interest that der	mands stronger regul	ation.		•
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competitive disad			those of other state	s: will the reg	uration put P	ennsylvania at a
competitive distre	variango wiai ou	ior builds.				
		e to the fees cha	arged in most of the	states surveyed a	nd should not	put Pennsylvania
at a competitive di	isadvantage.					
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No.						
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	latory Analysis Form	
(28) Will the regulation change existing reporting changes and attach copies of forms or reports which		
The only paperwork requirements will be those im collect amounts invoiced.	posed on DGS to record the serv	vices performed, issue invoices, and
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		•
(29) Please list any special provisions which have persons including, but not limited to, minorities, eld		
persons including, but not minied to, minorities, eig	ierry, sman dustnesses, and farm	GIS.
N/A		
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required; and the date by which any required permits The proposed rulemaking will take effect upon publi		
(31) Provide the schedule for continual review of the	regulation.	
Fees will be reviewed annually and the regulation wi	Il he revised as needed	·
tes will be reviewed almostly and the regulation wi	il de levised as liceded.	
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FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

#2478

2005 APR 20 AM 10: 33
"" KEYIEM COMMISSION"

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General By:	Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by: DGS & Dept. of Agriculture Many Generals	Copy below is hereby approved as to form and legality Executive or independent agercies BY 3. 11.05
APR 0 2005	(AGENCY) COUTS e 1 DOCUMENT/FISCAL NOTE NO. 008-009 DATE OF ADOPTION	DATE OF APPROVAL (Deputy General Counsel) (Chief Counsel - Independent Agency) (Strike Inapplicable title)
Check if applicable Copy not approved. Objections attached.	DENNIS C WOLFF TITLE SECRETARY Pennsylvania Department of Agriculture	Check if applicable. No Attorney General Approval or objection within 30 days after submission.
	DATE OF ADOPTION Feb. 10, 3005 BY Donald T. Curining liam, S. TITLE SECRETARY Department of General Services	

Notice of Proposed Rulemaking

Department of General Services
Department of Agriculture

Title 70 – WEIGHTS, MEASURES AND STANDARDS 70 Pa. Code Chapters 2, 10 and 110

General Provisions; Device Type Approval; State Metrology Laboratory

PROPOSED RULEMAKING

DEPARTMENT OF GENERAL SERVICES DEPARTMENT OF AGRICULTURE

GENERAL PROVISIONS, DEVICE TYPE APPROVAL AND STATE METROLOGY LABORATORY [70 PA. CODE CHAPTERS 2, 10 and 110]

The Department of General Services (DGS) and the Department of Agriculture (PDA) propose to establish fees for testing services performed by the State Metrology Laboratory by: (1) amending PDA's current regulations at 70 Pa. Code § 10.10 (relating to fees) and 70 Pa. Code § 2.1 (relating to definitions) and (2) establishing a new DGS-administered chapter, Chapter 110 (relating to State Metrology Laboratory). The proposed regulation would read as set forth in Annex A.

Statutory Authority

The Consolidated Weights and Measures Act (3 Pa.C.S. §§ 4101-4194) (Act) is the legal authority for the proposed regulation. The Act requires that DGS establish, by regulation, fees for metrology laboratory calibration, type evaluation and other testing services. 3 Pa.C.S. § 4178. At 3 Pa.C.S. § 4190, the Act provides PDA authority to regulate as necessary to implement the Act.

Purpose of the Regulation

The regulation will fulfill the statutory requirement that DGS establish, charge and collect the fees described in the Act (in § 4178). Currently, the State Metrology Laboratory (Laboratory) provides these services without charge. The proposed regulation is necessary to comply with the Act. The regulation will ensure that taxpayer dollars are not used to pay for testing by the Laboratory when user fees are statutorily authorized and required.

Background

Reorganization Plan No. 1 of 1986 (71 P.S. § 751-38) transferred PDA's statutory functions, powers and duties relating to weights and measures laboratory testing to DGS. PDA retained general weights and measures enforcement responsibility. This division of responsibilities between DGS and PDA was repeated in the Act, which took effect in 1997.

DGS manages and operates the Laboratory, as part of the Division of Quality Assurance in the Bureau of Purchases under the Deputy Secretary for Procurement.

In 1999 PDA promulgated extensive regulations under authority of the Act. These regulations appear in Title 70 (relating to weights, measures and standards). In particular, 70 Pa. Code § 10.10 states that the Laboratory may charge a fee for device type approval. Under the

Act the Laboratory is *required* to charge and collect such fees for metrology calibration and other testing in addition to device type evaluation. A fee schedule was not included in the regulations adopted in 1999.

The proposed regulation would establish a schedule of fees and add relevant definitions. As structured, it would also allow DGS to revise the fee schedule in the future without involving PDA in the promulgation process.

Overview of the Proposed Regulation

The proposed regulation would accomplish the following: (1) amend § 10.10 (relating to fees) to clarify that DGS shall charge fees for metrology testing as required by the Act and add definitions to § 2.1; (2) create a new chapter – Chapter 110 – in which DGS adopts procedures and sets fees to for Laboratory testing services.

Affected Individuals and Organizations

Each year, the Laboratory provides metrology calibration, type evaluation and testing for several hundred persons, who sell, install, service or repair commercially used weighing and measuring devices and who must have the accuracy of their field standards verified pursuant to 70 Pa.Code § 6.3 (relating to field standards). Last year the Laboratory provided approximately 740 services - including services to approximately 400 private persons. Under the proposed regulation, the Laboratory will charge these persons fees for testing now provided for free.

Cities and counties which are required to procure standards of weights and measures and any additional equipment in accordance with section 4123 of the Act (relating to city and county standards and equipment) are exempt from the fee requirements with respect to the calibration, evaluation or other testing of those standards and equipment. 3 Pa.C.S. § 4178.

The general public will benefit because the fees generated will pay for services now paid for from taxpayer dollars.

Fiscal Impact

Commonwealth: The estimated annual revenue to the Commonwealth (DGS) from the proposed regulation is approximately \$105,000. The proposed regulation should not result in additional costs to the Commonwealth.

Public Sector: No other government entity will incur any costs or realize any savings.

General Public: The proposed regulation will impose no costs and have no fiscal impact upon the general public.

Affected Businesses: The affected businesses, which use Laboratory services will have to pay the fees set in the proposed regulation. The anticipated average fee per user is estimated to be \$262.50.

Paperwork Requirements

The proposed regulations will result in an increase in paperwork for the Laboratory, which will be required to issue invoices, collect payments and transmit payments the State Treasury. Pursuant to § 4193(c) (relating to disposition of funds) of the Act, the Treasury Department will have an increase in paperwork to reflect the receipt of the fees from DGS and to credit the fees collected to the general government appropriations of DGS for the operation and maintenance of the Laboratory.

Effective Date

The proposed regulation will take effect upon publication in the *Pennsylvania Bulletin* as final-form regulation.

Public Comments and Contact Person

Interested persons are invited to submit written comments regarding the proposed regulation to Mary Benefield Seiverling, Senior Counsel, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125, (717) 787-5599 within thirty calendar days after the date of publication of this proposed regulation in the *Pennsylvania Bulletin*.

Regulatory Review

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 20, 2005, the Department of General Services and the Department of Agriculture submitted a copy of this proposed regulation to the Independent Regulatory Review Commission (IRRC). On that same date the Department of Agriculture submitted a copy to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee and the Department of General Services submitted a copy to the Chairpersons of the House Committee on State Government and the Senate Committee on State Government. The Departments also provided IRRC and the Committees a detailed Regulatory Analysis Form prepared by the Department of General Services. A copy of this material is available to the public upon request.

In accordance with section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed regulation, it must so notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to the final publication of the proposed regulation.

DONALD T. CUNNINGHAM, JR. Secretary, Department of General Services

DENNIS C. WOLFF Secretary, Department of Agriculture

Annex A

TITLE 70. WEIGHTS, MEASURES AND STANDARDS PART I. WEIGHMASTERS

CHAPTER 2. GENERAL PROVISIONS

§ 2.1 Definitions.

* * * * *

* ASTM—The American Society of Testing and Measurement.

* * * * *

* OIML—The International Organization of Legal Metrology.

State Metrology Laboratory—The Pennsylvania Standards Laboratory within the

Department of General Services, having custody of the State standards of weight and measure

and of other standards and equipment provided for by the Act.

CHAPTER 10. DEVICE TYPE APPROVAL

§ 10.10. Fees.

[(a) Fees.] The State Metrology Laboratory [may] shall charge [an applicant] a fee for conducting tests that may be required for device type approval under this chapter, and for metrology laboratory calibration, type evaluation and any other testing services it performs under

authority of the Act. These fees shall be as set forth in § 110.2 (relating to State Metrology Laboratory fee schedule).

[(b) Exemption. A city or county which is required to procure standards of weights and measures and additional equipment in accordance with section 4123 of the Act (relating to city and county standards and equipment) to enforce the Act is exempt from having to pay fees with respect to the calibration, evaluation or other testing of those standards and that equipment.]

PART V. STATE METROLOGY LABORATORY CHAPTER 110. GENERAL PROVISIONS

§ 110.1. Metrology Services

- (a) The State Metrology Laboratory provides testing services including calibration to

 ASTM, NIST and OIML standards.
- (b) Requests for testing services must be made by appointment. No standards or equipment will be accepted for testing without appointment.
 - (c) Units submitted for testing or calibration must be cleaned before submission.

§110.2. State Metrology Laboratory fee schedule

- (a) General. The State Metrology Laboratory shall charge a fee for any testing services it provides under authority of the Act. These services include actual metrology laboratory calibration, type evaluation and any other services identified in subsection (c).
- (b) Exemption. A city or county which is required to procure standards of weights and measures and additional equipment in accordance with section 4123 of the Act (relating to city

and county standards and equipment) to enforce the Act is exempt from having to pay fees with respect to the calibration, evaluation or other testing of those standards and that equipment.

(c) Schedule of Fees. The State Metrology Laboratory shall charge the following fees for the indicated testing services:

General type of test	<u>Description</u>	<u>Fee</u>
Precision mass	Up to ASTM E 617 Class 2 or best calibration but not to a specific class to and including 30 kg. or 50 lb.	\$30.00 per weight
Precision mass	ASTM E617 Class 3 and 4 and OIML Class F1 and F2 to and including 30 kg. or 50 lb.	\$12.00 per weight
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6, 7 and OIML Class	\$2.00 per weight (without adjustment)
	M1, M2 and M3 to and including 5 kg. or 10 lb.	\$10.00 per weight (with adjustment)
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6 and 7 from 10 kg.	\$5.00 per weight (without adjustment)
	or 20 lb. to 50 kg. or 100 lb.	\$10.00 per weight (with adjustment)
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6 and 7 from 100 kg.	\$15.00 per weight (without adjustment)
	or 200 lb. to 2500 kg. or 5500 lb.	\$25.00 per weight (with adjustment)
Ordinary mass	Weight Carts	\$50.00 per cart
Volume transfer	5 gallon/20 liter test measures	\$15.00 per measure (includes adjustment)
Volume transfer	10 gallon to 50 gallon	\$50.00 per prover (includes adjustment)

Volume transfer	51 to 100 gallon	\$150.00 per prover (includes adjustment)
Volume transfer	Greater than 100 gallon	\$150.00 plus \$50.00 per each additional 100 gallons or fractions thereof
Gravimetric Calibrations	Metal Test Measures to 5 gallon or 20 liters or 1 cubic foot	\$35.00 per item
Length Calibrations	Metal Tapes or Rules	\$15.00 per point tested
Timing Devices	Stopwatches	<u>\$30.00</u>
Wheel Load Weighers		\$6,00 per scale
Special Tests		\$75.00 per man-hour

(d) Payment of Fees. A deposit for the estimated fee must be submitted when the testing request is made. Fees are payable at the time the metrology service is provided, regardless of whether the item tested is certified or approved.

DEPARTMENT OF AGRICULTURE **Notice of Proposed Rulemaking**

Pa Code Cite: 70 Pa. Code Chapters 2, 10 and 110

Regulation Title: General Provisions; Device Type Approval; State Metrology Laboratory

I.D. Number: 008-009

SECRETARY'S CERTIFICATION

I, Dennis C Wolff, do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1, "Regulatory Review and Promulgation."

Dennis C Wolff, Secretary

Feb. 10, 2005 Date

DEPARTMENT OF GENERAL SERVICES Notice of Proposed Rulemaking

Pa Code Cite: 70 Pa. Code Chapters 2, 10 and 110

Regulation Title: General Provisions; Device Type Approval; State Metrology Laboratory

I.D. Number: 008-009

SECRETARY'S CERTIFICATION

I, Donald T. Cunningham, Jr., do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1, "Regulatory Review and Promulgation."

Oonald T. Cunningham, Jr. Secretary

Date



COMMONWEALTH OF PENNSYLVANIA OFFICE OF GENERAL COUNSEL

DEPARTMENT OF GENERAL SERVICES

Office of Chief Counsel 603 North Office Building Harrisburg, Pennsylvania 17125 PHONE: (717) 787-5599 FAX: (717) 787-9138

April 20, 2005

The Honorable Mary Wyatte, Acting Executive Director Independent Regulatory Review Commission 14th Floor, Harristown 2 Harrisburg, PA 17120

Re: NOTICE OF PROPOSED RULEMAKING

Department of General Services/Department of Agriculture

70 Pa. Code Chapters 2, 10 and 110 Weights, Measures and Standards -

General Provisions; Device Type Approval;

State Metrology Laboratory

Dear Ms. Wyatte:

Please find enclosed copies of the Face Sheet, Preamble, Annex "A" and Regulatory Analysis Form with respect to the above proposed regulation.

Copies of these documents have been submitted to the majority and minority chairpersons of the House and Senate Agriculture and Rural Affairs Committees and to the Legislative Reference Bureau on this date. The House and Senate State Government Committees have also been provided this document for comment.

The proposed regulation will be published in the April 30, 2005 edition of the *Pennsylvania Bulletin*. If I may be of further information, please advise.

Sincerely, Mmy Brefuld

Mary Benefield Seiverling Assistant Chief Counsel

Enclosure

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBE	R: 8-009		
SUBJECT:	Weights, Measures and Standards: General Provisions; Device Type Approval; State Metrology Laboratory		
AGENCY:	DEPARTMENT OF GENERAL SERVICES & DEPARTMENT OF AGRICULTURE		
TYPE OF REGULATION			
X	Proposed Regulation		
	Final Regulation		
	Final Regulation with Notice of Proposed Rulemaking Omitted		
	120-day Emergency Certification of the Attorney General		
	120-day Emergency Certification of the Governor		
	Delivery of Tolled Regulation a. With Revisions b. Without Revisions		
	# 2478		
FILING OF REGULATION			
DATE	SIGNATURE DESIGNATION		
11/20/05	HOUSE COMMITTEE ON STATE GOVERNMENT		
Hoolos Mariame Spriggeri			
4/20/05 longer theckenson SENATE COMMITTEE ON STATE GOVERNMENT			
1/10/05 & Saudes			
4/20/05 Sex	independent regulatory review commission		
	ATTORNEY GENERAL (for Final Omitted only)		
4/20/05 C	LEGISLATIVE REFERENCE BUREAU (for Proposed only)		
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TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER	R: 8-009	
SUBJECT:	Weights, Measures and Standards: General Provisions; Device Type Approval; State Metrology Laboratory	
AGENCY:	DEPARTMENT OF GENERAL SERVICES & DEPARTMENT OF AGRICULTURE	
х	TYPE OF REGULATION Proposed Regulation Final Regulation	
	Final Regulation with Notice of Proposed Rulemaking Omitted	
	120-day Emergency Certification of the Attorney General 120-day Emergency Certification of the Governor	
	120-day Emergency Certification of the Governor	
	Delivery of Tolled Regulation a. With Revisions b. Without Revisions	
	# 2478	
FILING OF REGULATION		
DATE	SIGNATURE DESIGNATION	
4-20-05 4/00/05 S	HOUSE AGRICULTURE & RURAL AFFAIRS COMMITTEE	
04/20/05 Civilia Boyn SENATE AGRICULTURE & RURAL AFFAIRS COMMITTEE		
4/20/us St	independent regulatory review commission	
	ATTORNEY GENERAL (for Final Omitted only)	
H20/5 C	LEGISLATIVE REFERENCE BUREAU (for Proposed only)	