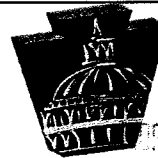


# Regulatory Analysis Form

(Completed by Promulgating Agency)



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INDEPENDENT REGULATORY REVIEW COMMISSION

## SECTION I: PROFILE

(1) Agency:

Department of General Services

(2) Agency Number: 08

Identification Number: 14

IRRC Number:

2796

(3) Short Title:

Metrology Calibration and Testing Fees

(4) PA Code Cite:

70 Pa. Code § 110.2

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Michael C. Barrett, Department of General Services, (717) 346-9781

Secondary Contact: Gary Ankabrandt, Department of General Services, (717) 783-1982

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

## Regulatory Analysis Form

The regulation amends the State Metrology Laboratory schedule of fees that the Department of General Services will charge for metrology laboratory calibration, type evaluation and other services performed by the Laboratory.

(9) Include a schedule for review of the regulation including:

- |   |                               |
|---|-------------------------------|
| A. The date by which the agency must receive public comments:                               | <u>11/15/2009 (estimated)</u> |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>N/A</u>                    |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>Upon Publication</u>       |
| D. The expected effective date of the final-form regulation:                                | <u>Upon Publication</u>       |
| E. The date by which compliance with the final-form regulation will be required:            | <u>Upon Publication</u>       |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>                    |

(10) Provide the schedule for continual review of the regulation.

Fees will be reviewed annually and the regulation will be revised as needed.

## SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

## Regulatory Analysis Form

Act of Dec. 18, 1996, P.L. 1028, No. 155, 3 Pa.C.S. §§ 4110, 4178 and 4190 (the Act).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes, section 4178 of the Act provides that the Department of General Services shall charge and collect fees for metrology laboratory calibration, type evaluation, and any other testing services, and shall establish the fees by regulation.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation will allow the Commonwealth to charge an appropriate fee for the services provided, thus ensuring that the cost of performing these testing services is borne by the parties who are receiving the services and not by the taxpayers.

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

Persons engaged in the business of selling, installing, servicing and repairing various types of commercial weighing and measuring devices will be charged fees according to the proposed fee schedule for services previously provided free of charge. Last year the Laboratory provided approximately 991 services including services to approximately 414 private persons, who would be charged fees under the proposed rulemaking. Based upon last year's data, the annual expense to each private person should average less than \$302 under the proposed fee schedule.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Persons engaged in the business of selling, installing, servicing and repairing various types of commercial weighing and measuring devices must be registered under the Act and the accuracy of their field standards must be certified annually.

## **SECTION III: COST AND IMPACT ANALYSIS**

## Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The estimate of fees that would be charged annually to the regulated community under the new fee schedule is \$125,000.00. The estimated annual fees for each user average \$302.00 (\$125,000/414).

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no new costs or savings to local governments associated with compliance with the proposed regulation.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There would be no new costs to state government. The estimated annual revenue to state government from the fees is \$125,000.00 which is an increase over fiscal year (through May) 2008 revenue of \$64,520.82.

(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

## Regulatory Analysis Form

SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
COSTS:						
Regulated Community	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000
Local Government						
State Government						
<b>Total Costs</b>	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The Commonwealth will benefit from the additional revenue that the fees will generate. Failure to adopt regulations will prevent the Commonwealth from charging and collecting the appropriate fee for these services.

## Regulatory Analysis Form

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The proposed fee schedule is based upon a survey of similar fees charged by approximately 14 other states conducted by the DGS Bureau of Purchases.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

None.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Not applicable.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed fee schedule is based upon a survey of similar fees charged by approximately 14 other states conducted by the DGS Bureau of Purchases, and the proposed fees are in line with fees charged by those states. In that the users of the Lab's services are in Pennsylvania, there is no impact or affect on Pennsylvania's ability to compete with other states.

## Regulatory Analysis Form

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No legal, accounting or consulting procedures, or additional reporting, recordkeeping or other paperwork, will be required for implementation of the regulation beyond the paperwork requirements already imposed on DGS to record the services performed, issue invoices, and collect amounts invoiced.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.



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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
BUREAU OF PROFESSIONS

DO NOT WRITE IN THIS

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><i>[Signature]</i></p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p><b>SEP 21 2009</b></p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of General Services</p> <p>_____ (AGENCY)</p> <p>LEGAL COUNSEL: <i>[Signature]</i></p> <p>DOCUMENT/FISCAL NOTE NO. 008-014</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <i>[Signature]</i></p> <p>TITLE SECRETARY, DEPARTMENT OF GENERAL SERVICES (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><i>[Signature]</i></p> <p>BY: _____ Andrew C. Clark</p> <p><b>AUG 28 2009</b></p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> <del>Chief Counsel, Independent Agency</del> (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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SPACE

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF GENERAL SERVICES

GENERAL PROVISIONS,  
DEVICE TYPE APPROVAL AND  
STATE METROLOGY LABORATORY  
[70 PA. CODE CHAPTER 110]

## ***Statutory Authority***

The Department of General Services (DGS) proposes to amend the fees for testing services performed by the State Metrology Laboratory by amending PDA's current regulations at 70 Pa. Code § 110.2 (relating to State Metrology Laboratory fee schedule). The proposed regulation would read as set forth in Annex A.

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 based upon a fee schedule established over five years ago, and promulgated in 2005. 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 2005 PDA promulgated regulations under authority of the Act. These regulations appear in Title 70 (relating to weights, measures and standards). In particular, 70 Pa. Code § 110.1 states that State Metrology Laboratory will charge 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. A fee schedule was first included in the regulations adopted in 2005.

The proposed regulation would update the schedule of fees.

## ***Overview of the Proposed Regulation***

The proposed regulation would amend § 110.2 (relating to State Metrology Laboratory fee schedule) to update the fees charged by DGS 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 991 services - including services to approximately 414 private persons.

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 which are now paid for in part from taxpayer dollars.

### ***Fiscal Impact***

***Commonwealth:*** The estimated annual revenue to the Commonwealth (DGS) from the proposed regulation is approximately \$125,000. 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 \$302.00.

### ***Paperwork Requirements***

The proposed regulations will not result in an increase in paperwork for the Laboratory, which already is required to issue invoices, collect payments and transmit payments the State Treasury. Similarly, pursuant to § 4193(c) (relating to disposition of funds) of the Act, the Treasury Department will have no increase in paperwork.

### ***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 Michael C. Barrett, 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 \_\_\_\_\_ the Department of General Services submitted a copy of this proposed regulation to the Independent Regulatory Review Commission (IRRC). On that same date 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.



JAMES P. CREEDON  
Secretary, Department of General Services

## Annex A

### TITLE 70. WEIGHTS, MEASURES AND STANDARDS

#### PART V. STATE METROLOGY LABORATORY

#### CHAPTER 110. GENERAL PROVISIONS

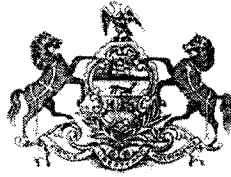
#### §110.2. State Metrology Laboratory fee schedule

\*\*\*\*\*

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

<i>General type of test</i>	<i>Description</i>	<i>Fee</i>
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] <u>30.00</u> per weight
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6, 7 and OIML Class M1, M2 and M3 to and including 5 kg. or 10 lb.	[\$2.00] <u>6.00</u> per weight (without adjustment) \$10.00 per weight (with adjustment)
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6 and 7 from 10 kg. or 20 lb. to 50 kg. or 100 lb.	[\$5.00] <u>10.00</u> per weight (without adjustment) [\$10.00] <u>20.00</u> per weight (with adjustment)
Ordinary mass	NIST Class F and ASTM E617 Classes 5, 6 and 7 from 100 kg. or 200 lb. to 2500 kg. or 5500 lb.	[\$15.00] <u>20.00</u> per weight (without adjustment) [\$25.00] <u>40.00</u> per weight (with adjustment)

		adjustment)
Ordinary mass	Weight Carts	[\$50.00] <u>210.00</u> per cart
Volume transfer	5 gallon/20 liter test measures	[\$15.00] <u>45.00</u> per measure (includes adjustment)
Volume transfer	10 gallon to 50 gallon	[\$50.00] <u>150.00</u> 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] <u>\$ 1.00 per each additional gallon over 100 gallons</u>
Gravimetric Calibrations	Metal Test Measures to 5 gallon or 20 liters or 1 cubic foot	[\$35.00] <u>180.00</u> per item
Length Calibrations	Metal Tapes or Rules	\$15.00 per point tested
Timing Devices	Stopwatches	\$30.00
Wheel Load Weighers		[\$6.00] <u>20.00</u> per scale
Special Tests		\$75.00 per man-hour



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF GENERAL SERVICES

September 29, 2009

The Honorable Kim Kauffman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, Pennsylvania 17101

**Re: Proposed Rulemaking  
General Provisions  
Device Type Approval and State Metrology Laboratory  
70 Pa. Code Chapter 110**

Dear Mr. Kauffman:

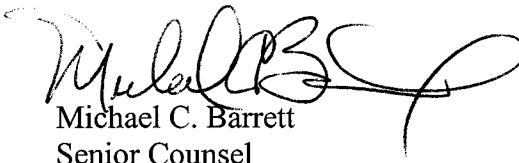
Enclosed is a proposed rulemaking and the Regulatory Analysis form prepared in compliance with Executive Order 1996-1, "Regulatory review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1090 (P.L. 73, No. 19)(71 P.S. §§745.1-745.15), the Department of General Services is submitting a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairmen of the Senate and House Committees for State Government and to the Legislative Reference Bureau.

The purpose of this proposal is to amend the fees for testing services performed by the State Metrology Laboratory by amending PDA's current regulations at 70 Pa. Code §110.2 (relating to State Metrology laboratory fee schedule). The regulation will fulfill the statutory requirement that DGS establish, charge and collect fees described in the Consolidated Weights and Measures Act. 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.

September 29, 2009

The Department of General Services will provide you with any assistance required to facilitate a thorough review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Barrett". The signature is stylized and cursive, with a large, sweeping flourish at the end.

Michael C. Barrett  
Senior Counsel

Enclosure



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

RECEIVED



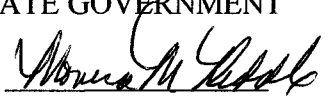

I.D. NUMBER: 8-14  
 SUBJECT: DEVICE TYPE APPROVAL AND STATE METROLOGY LABORATORY  
 AGENCY: DEPARTMENT OF GENERAL SERVICES

SEP 29 11 11 AM '09  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**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

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9-29-09		HOUSE COMMITTEE ON STATE GOVERNMENT MAJORITY CHAIRMAN 
9-29-09		SENATE COMMITTEE ON STATE GOVERNMENT MAJORITY CHAIRMAN 
9/29/09		INDEPENDENT REGULATORY REVIEW COMMISSION  ATTORNEY GENERAL (for Final Omitted only)  LEGISLATIVE REFERENCE BUREAU (for Proposed only)