

**CHAPTER 10. DEVICE TYPE APPROVAL**

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**Authority**

The provisions of this Chapter 10 issued under the Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4101—4194, unless otherwise noted.

**Source**

The provisions of this Chapter 10 adopted May 7, 1999, effective May 8, 1999, 29 Pa.B. 2460, unless otherwise noted.

**Cross References**

This chapter cited in 70 Pa. Code § 9.4 (relating to qualifications); 70 Pa. Code § 9.9 (relating to commodities sold by weight); and 70 Pa. Code § 9.11 (relating to issuing a public weighmaster's certificate).

**§ 10.1. Purpose.**

This chapter is intended to establish the procedures by which the Department will review and approve or disapprove each type of weighing and measuring device intended for commercial use or in commercial use within this Commonwealth, in accordance with Subchapter D of the act (relating to device type approval) and this chapter.

**§ 10.2. Prohibition with respect to unapproved devices.**

A person may not manufacture, offer or expose for sale or sell or give away for use in trade or commerce any weighing and measuring device of a type not approved in accordance with Subchapter D of the act (relating to device type approval) and this chapter.

**§ 10.3. General standard for approval by the Department.**

The Department will approve a type of weighing and measuring device if the type is so designed and constructed that it conforms to or gives correct results in terms of values derived therefrom, is reasonably permanent in its indication and adjustment and does not facilitate the perpetration of fraud.

**Cross References**

This section cited in 70 Pa. Code § 10.5 (relating to meeting the general standard for approval); 70 Pa. Code § 10.6 (relating to application and review); and 70 Pa. Code § 10.9 (relating to specifications, variations and tolerances with respect to device type approval).

**§ 10.4. Basic procedure.**

A person seeking approval of a type of weighing and measuring device shall follow the application procedure in § 10.6 (relating to application and review).

**§ 10.5. Meeting the general standard for approval.**

(a) *Certificate of conformance from NCWM.* The Department will approve a type of weighing and measuring device if a certificate of conformance has been issued by the National Type Evaluation Program administered by NCWM with respect to that particular type of weighing and measuring device.

(b) *Certificate of conformance from NIST.* The Department will approve a type of weighing and measuring device if a certificate of conformance has been issued by NIST with respect to that particular type of weighing and measuring device.

(c) *UPC scanning systems and PLU devices.* The Department will approve a type of UPC scanning system or PLU device if the person seeking approval can document to the Department's satisfaction that the type of weighing and measuring device meets the standard in § 10.3 (relating to general standard for approval by the Department).

**Cross References**

This chapter cited in 70 Pa. Code § 10.6 (relating to application and review); and 70 Pa. Code § 10.9 (relating to specifications, variations and tolerances with respect to device type approval).

**§ 10.6. Application and review.**

(a) *Obtaining an application.* A person seeking the Department's approval of a particular type of weighing and measuring device shall request an approved application form from the Department. The prospective applicant may contact the Department at the address in § 2.2 (relating to contacting the Department).

(b) *Contents of application form.* The application form shall require the following information:

(1) The name and address of the applicant.

(2) A detailed description of the type of weighing and measuring device with respect to which approval is sought.

(3) A copy of any certificate of conformance issued by the National Type Evaluation Program administered by NCWM with respect to that type.

(4) A copy of any certificate of conformance issued by NIST with respect to that type.

(5) Other documentation necessary to a reasoned determination by the Department as to whether the type meets the general standard in §§ 10.3 and

10.5 (relating to general standard for approval by the Department; and meeting the general standard for approval). If a certificate of conformance as described in paragraph (3) or (4) is not submitted, a sample of the type—or specifications with respect to the type—shall be submitted as part of the application.

(6) Either a precise description of the manner in which devices of the type with respect to which approval is sought are clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device, or an explanation of the reason it is impracticable to mark the devices as required by this section and a request for a waiver of some or all of these marking requirements under section 4174 of the act (relating to marking of approved weights and measures).

(7) Other information the Department might reasonably require in considering approval.

(c) *Submitting the application.* The applicant shall forward the completed application form to the address in § 2.2.

(d) *Review by Department.* The Department will complete its review of an application within 30 days of receiving a complete application form. If the Department requests additional information from an applicant, this 30-day period does not commence until the requested information is received. The Department will approve a type of weighing and measuring device if it meets the standards for approval in §§ 10.3 and 10.5. The Department will mail the applicant either a certificate of approval or a notice of disapproval within that 30-day period. A notice of disapproval will contain an explanation of the basis upon which the decision to disapprove was made, and otherwise meet the requirements of section 4172 of the act (relating to certificates of approval; notice of disapproval; appeals).

(e) *Review of decision to disapprove a device type.* An applicant shall follow the procedure in section 4172 of the act to obtain review of a decision by the Department to disapprove a device type.

#### Cross References

This section cited in 70 Pa. Code § 10.4 (relating to basic procedure).

### § 10.7. Certificate of approval.

(a) *Content of certificate.* A certificate of approval issued by the Department under this chapter will contain the following:

- (1) The name and address of the person to whom it is issued.
- (2) A description of the type of approved weighing and measuring device.
- (3) A reference to the requirement that approved weighing and measuring devices be clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device. This provision

does not apply when a waiver is obtained from the Department in accordance with section 4174 of the act (relating to marking of approved weights and measures).

(4) The date of issuance of the certificate.

(5) Other information deemed relevant by the Department for inclusion in the certificate.

(b) *Effect of issuance of certificate.* The issuance of a certificate of approval by the Department with respect to a type of weighing and measuring device confirms that the type meets the standards for device type approval in Subchapter D of the act (relating to device type approval) and this chapter, and is not a guarantee or verification of the correctness of any individual weight or measure belonging to that type.

### § 10.8. Marking of approved devices.

(a) *General.* A weighing and measuring device that is of a type approved under Subchapter D of the act (relating to device type approval) and this chapter shall be conspicuously, clearly and permanently marked in accordance with the representations made on the approval application, unless the Department grants an exception in accordance with section 4174 of the act (relating to marking of approved weights and measures).

(b) *UPC scanning systems and PLU devices.* The Department is satisfied it is generally impracticable to mark a UPC scanning system or PLU device as required under section 4174 of the act. The Department will issue a certificate to that effect to any manufacturer applying for the same. A certificate issued under this subsection exempts the system or device described therein from having to be marked as otherwise required under section 4174 of the act.

### § 10.9. Specifications, variations and tolerances with respect to device type approval.

(a) *General.* The specifications, variations and tolerances recommended by NIST and published in the NIST Handbook 44, and supplements thereto, or in a publication revising or superseding Handbook 44, shall be the specifications, variations and tolerances of the Department with respect to the approval of types of weighing and measuring devices under this chapter.

(b) *Meeting the standards.*

(1) If either NIST or NCWM has issued a certificate of conformance with respect to a type of weighing and measuring device, that type shall be deemed to be in compliance with the specifications, variations and tolerances of the Department for device type approval.

(2) In determining whether to issue a certificate of approval with respect to a type of UPC scanning system or PLU device, the Department will apply

the general standard for approval in §§ 10.3 and 10.5 (relating to general standard for approval by the Department; and meeting the general standard for approval).

**§ 10.10. Fees.**

The 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. These fees are set forth in § 110.2 (relating to State Metrology Laboratory fee schedule).

**Authority**

The provisions of this § 10.10 amended under the Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4101—4194.

**Source**

The provisions of this § 10.10 amended October 28, 2005, effective October 29, 2005, 35 Pa.B. 5985. Immediately preceding text appears at serial page (255675).

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