

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 2600]

#### Personal Care Homes

The Department of Public Welfare (Department) announces a delayed implementation of two sections of 55 Pa. Code Chapter 2600 (relating to personal care homes) published at 35 Pa.B. 2499 (April 23, 2005). A delayed implementation of the requirements at §§ 2600.64(a)(3) and 2600.68(b) (relating to administrator training and orientation; and instructor approval) for the competency-based training test for an administrator and the train-the-trainer course is necessary to allow adequate time for preparation of the test and course.

The regulations and this notice are published under the authority of section 211 and Articles IX and X of the Public Welfare Code (62 P.S. §§ 211, 901—922 and 1001—1087).

#### Order

The Department, acting under the Public Welfare Code, orders that:

\* \* \* \* \*

(d) This Order shall take effect on October 24, 2005, with the exception of § 2600.65(d) that shall take effect on April 24, 2006, §§ 2600.19(g), **2600.64(a)(3)** and **2600.68(b)**, that shall take effect on October 24, 2006, and §§ 2600.122, 2600.130(e) and 2600.182 that shall take effect on April 24, 2007.

This notice is effective on October 24, 2005.

#### Public Comment

Interested persons are invited to submit written comments regarding this notice to Karen E. Kroh, Director, Department of Public Welfare, Adult Residential Licensing, 3rd Floor West, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary,*

[Pa.B. Doc. No. 05-1981. Filed for public inspection October 28, 2005, 9:00 a.m.]

## Title 70—WEIGHTS, MEASURES AND STANDARDS

### DEPARTMENT OF GENERAL SERVICES

#### DEPARTMENT OF AGRICULTURE

[70 PA. CODE CHS. 2, 10 AND 110]

#### General Provisions; Device Type Approval; State Metrology Laboratory

The Department of General Services (DGS) and the Department of Agriculture (Department) adopt fees for

testing services performed by the State Metrology Laboratory by amending §§ 2.1 and 10.10 (relating to definitions; and fees) in the Department's regulations and adding Part V (relating to State Metrology Laboratory), administered by DGS.

#### Statutory Authority

The final-form rulemaking is made under the authority of 3 Pa.C.S. §§ 4101—4194 (relating to Consolidated Weights and Measures Act) (act). Section 4178 of the act (relating to fees) requires that DGS establish, by regulation, fees for metrology laboratory calibration, type evaluation and other testing services. Section 4190 of the act (relating to rules and regulations) provides the Department authority to regulate as necessary to implement the act.

#### Purpose of the Final-Form Rulemaking

The final-form rulemaking fulfills the statutory requirement that DGS establish, charge and collect the fees in section 4178 of the act. Currently, the State Metrology Laboratory (Laboratory) provides these services without charge. The final-form rulemaking is necessary to comply with the act. Adoption of the final-form rulemaking will ensure that taxpayer dollars are not used to pay for testing by the Laboratory when user fees are statutorily authorized and required. The final-form rulemaking adds definitions in § 2.1, amends § 10.10 to clarify that DGS shall charge fees for metrology testing as required by the act and establishes Part V, in which DGS adopts procedures and sets fees to for Laboratory testing services.

Notice of proposed rulemaking was published at 35 Pa.B. 2631 (April 30, 2005). Publication was followed by a 30-day public comment period during which DGS did not receive any comments. The Senate State Government Committee, the House State Government Committee, the Senate Agriculture and Rural Affairs Committee and the House Agriculture and Rural Affairs Committee had no comments. On June 30, 2005, the Independent Regulatory Review Commission (IRRC) submitted two comments to the proposed rulemaking.

#### Comments and Responses

IRRC recommended that the rulemaking include language recognizing that State agencies are statutorily exempt from payment of the fees. This recommendation has been implemented in the final-form rulemaking. Section 110.2(b) (relating to State Metrology Laboratory fee schedule) has been amended to more closely parallel the statute by stating that Commonwealth agencies are exempt from the fees. IRRC also recommended that the regulation explicitly provide that the fee deposit is nonrefundable. Section 110.2(d) was amended to reflect that the deposit is nonrefundable.

#### Fiscal Impact

*Commonwealth:* The estimated annual revenue to the Commonwealth (DGS) from the final-form rulemaking is approximately \$105,000. The final-form rulemaking 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 final-form rulemaking will impose no costs and have no fiscal impact upon the general public.

*Affected Businesses:* Affected businesses that use Laboratory services will have to pay the fees set in the final-form rulemaking. The anticipated average fee per user is estimated to be \$262.50.

*Paperwork Requirements*

The final-form rulemaking will result in an increase in paperwork for the Laboratory, which will be required to issue invoices, collect payments and transmit payments to the State Treasury. Under section 4193(c) of the act (relating to disposition of funds), 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*

This final-form rulemaking will take effect upon publication in the *Pennsylvania Bulletin*.

*Additional Information*

Individuals who need information about the final-form rulemaking should contact Mary Benefield Seiverling, Assistant Chief Counsel, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125, (717) 787-5599.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2005, DGS and the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2631, to IRRC. On that same date, the Department submitted a copy of the proposed rulemaking to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee and DGS submitted a copy of the proposed rulemaking to the Chairpersons of the House Committee on State Government and the Senate Committee on State Government. IRRC provided the Committees with a copy of its comments.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on September 7, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 8, 2005, and approved the final-form rulemaking.

*Findings*

DGS and the Department find that:

(1) Public notice of intention to adopt this final-form rulemaking has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form rulemaking adopted by this order is necessary and appropriate for the performance of DGS and the Department duties under The Administrative Code of 1929 (71 P. S. §§ 51—732).

*Order*

DGS and the Department, acting under the authorizing statutes, order that:

(a) The regulations of DGS and the Department, 70 Pa. Code Chapters 2, 10 and 110, are amended by amending §§ 2.1 and 10.10 and by adding § 110.1 to read as set forth at 35 Pa.B. 2631 and by adding § 110.2 to read as set forth in Annex A.

(b) The Secretaries of DGS and the Department shall submit this order, 35 Pa.B. 2631 and Annex A to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Secretaries of DGS and the Department shall certify and deposit this order, 35 Pa.B. 2631 and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES P. CREEDON,  
Secretary  
Department of General Services  
DENNIS C WOLFF,  
Secretary  
Department of Agriculture

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 5332 (September 24, 2005).)

**Fiscal Note:** Fiscal Note 8-9 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 70. WEIGHTS, MEASURES AND STANDARDS**

**PART V. STATE METROLOGY LABORATORY**

**CHAPTER 110. GENERAL PROVISIONS**

**§ 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) *Exemptions.*

(1) Agencies of the Commonwealth are exempt from having to pay any of the fees established in this section.

(2) 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:

| <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 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 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 per weight (without adjustment)<br>\$10 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 per weight (without adjustment)<br>\$10 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 per weight (without adjustment)<br>\$25 per weight (with adjustment) |
| Ordinary mass               | Weight carts   | \$50 per cart   |
| Volume transfer             | 5 gallon/20 liter test measures  | \$15 per measure (includes adjustment)                                    |
| Volume transfer             | 10 gallon to 50 gallon   | \$50 per prover (includes adjustment)                                     |
| Volume transfer             | 51 to 100 gallon   | \$150 per prover (includes adjustment)                                    |
| Volume transfer             | Greater than 100 gallon  | \$150 plus \$50 per each additional 100 gallons or fractions thereof      |
| Gravimetric calibrations    | Metal test measures to 5 gallon or 20 liters or 1 cubic foot   | \$35 per item   |
| Length calibrations         | Metal tapes or rules   | \$15 per point tested   |
| Timing devices              | Stopwatches  | \$30  |
| Wheel load weighers         |  | \$6 per scale   |
| Special tests               |  | \$75 per man-hour   |

(d) *Payment of fees.* A nonrefundable deposit for the estimated fee shall 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.

[Pa.B. Doc. No. 05-1982. Filed for public inspection October 28, 2005, 9:00 a.m.]