Ohio Administrative Code

Rule 901:6-2-01 National type evaluation program.

Effective: December 29, 2023

(A) Application

This regulation applies to any type of device and/ or equipment covered in "National Institute of Standards and Technology (NIST) Handbook 44" (2023 edition) for which evaluation procedures have ben published in the national conference on weights and measures (NCWM), Publication 14, "National Type Evaluation Program, Technical Policy, Checklists, and Test Procedures" (2023 edition).

(B) Definitions

(1) Active certificate of conformance (CC)- a document issued based on testing by a participating laboratory, which the certificate holder maintains in active status under the nation type evaluation program (NTEP). The document constitutes evidence of conformance of a type with the requirements of this document, NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," (2023 edition) and the test procedures contained in NCWM Publication 14. By maintaining the certificate in active status, the certificate holder declares the intent to continue to manufacture or remanufacture the device consistent with the type and in conformance with the applicable requirements. A device is traceable to an active CC if: (a) it is of the same type identified on the certificate, and (b) it was manufactured during the period that the certificate was maintained in active status. For manufacturers of grain moisture meters, maintenance of active status also involves annual participation in the NTEP "Laboratory On-going Calibration Program," OCP (phase II).

(2) Device- a piece of commercial or law enforcement equipment as defined in paragraph (B)(15) of this rule. A device may be a single unit or a combination of separate and compatible main elements. A device includes, at a minimum, those main elements that: (a) perform the measurement, and (b) process the measurement signals up to the first indicated or recorded value of the final quantity upon which the transaction is based.

(3) Director- the director of the Ohio department of agriculture.

(4) Manufactured device- any commercial weighing or measuring device shipped as new from the original equipment manufacturer.

(5) National type evaluation program- a program of cooperation between the NCWM, NIST, other federal agencies, the states, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions of NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," (2023 edition) and NCWM, Publication 14, "National Type Evaluation Program, Technical Policy, Checklists, and Test Procedures" (2023 edition).

(6) One-of-a-kind device (non-NTEP)- device designed to meet unique demands for a specific installation and of a specific design which is not commercially available elsewhere (one such device per manufacturer). If a device manufactured for sale by a company has been categorized and tested as a "one-of-a-kind" device and the manufacture then decides to manufacture an additional device or devices of that same type, the device will no longer be considered a "one-of-a-kind" device by a weights and measures jurisdiction in one state and the manufacturer decides to manufacture and install another device of that same type in another state. In this case, the manufacturer of the device must request an NTEP evaluation on the device through the normal application process unless NTEP has already deemed that such evaluation will not be conducted.

(7) Participating laboratory- any state measurement laboratory or state weights and measures agency or other laboratory that has been authorized to conduct a type evaluation under the NTEP.

(8) Person- both singular and plural, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.

(9) Remanufactured device- a device that is disassembled, checked for wear, parts replaced or fixed, reassembled and made to operate like a new device of the same type.

(10) Remanufactured element- an element that is disassembled, checked for wear, parts replaced or

fixed, reassembled, and made to operate like a new element of the same type.

(11) Repaired device- a device to which work is performed that brings the device back into proper operating condition.

(12) Repaired element- an element on which work is performed that brings the element back into proper operating condition.

(13) Type- a model or models of a particular device, measurement instrument, instrument, or element that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the certificate of conformance.

(14) Type evaluation- the testing, examination and/or evaluation of a type by a participating laboratory under the national type evaluation program.

(15) Commercial and law enforcement equipment; that is:

(a) Commercial weighing and measuring equipment:

(i) Weights and measures and weighing and measuring devices used or employed:

(a) In establishing the size, quantity, extent area, composition (limited to meat and poultry), constituent values (limited to grain), or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award;

(b) When assessing a fee for the use of the equipment to determine a weight or measure;

(c) In determining the basis of an award using count, weight, or measure; or

(d) in computing any basic change or payment for services rendered based on weight or measure.

(ii) To any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed that its operation affects the accuracy of the device.

(b) Law enforcement equipment; that is:

Weighing and measuring equipment in official use for the enforcement of law or the collection of statistical information by government agencies.

(C) The director shall require a device to be traceable to an active certificate of conformance (CC) prior to its installation or use for commercial or law enforcement purposes. If the device consists of separate and compatible main elements, each main element shall be traceable to a CC. A device is traceable to a CC if:

(1) It is identified on the certificate; and

(2) It was manufactured during the period that the certificate was maintained in active status.

(D) Prohibited acts and exceptions:

(1) Except for a device exempted by this section, no person shall sell a device unless it is traceable to an active CC.

(2) Except for a device exempted by this section, no person shall use a device unless it is traceable to an active CC.

(3) A device in service in Ohio prior to any certificate of conformance requirement that meets the specifications, tolerances, and other technical requirements of NIST Handbook 44 is not required to be traceable to an active CC.

(4) A device in service in Ohio prior to any certificate of conformance requirement that is removed from service by the owner and returned to service at a later date shall meet all specifications, tolerances, and other technical requirements of NIST Handbook 44 (2023 edition) effective on the date of the return to service is not required to be traceable to an active CC.

(5) A device in service in Ohio prior to any certificate of conformance requirement which is later

repaired shall meet the specifications, tolerances, and other technical requirements of NIST Handbook 44 (2023 edition) but is not required to be traceable to an active CC.

(6) A device in service in Ohio prior to any certificate of conformance requirement that is still in use may be installed at another location in Ohio provided the device meets requirements in effect as of the date of installation in the new location; however, the device is not required to be traceable to an active CC.

(7) A device in service in another state prior to any certificate of conformance requirement may be installed in Ohio; however, the device shall meet the specifications, tolerances, and technical requirements for weighing and measuring devices in NIST Handbook 44 (2023 edition) and be traceable to an active CC.

(8) The director may accept the design of a one-of-a-kind device without an NTEP evaluation pending inspection and performance testing to satisfy that the device complies with NIST Handbook 44 (2023 edition) and is capable of performing within the Handbook 44 requirements for a reasonable period of time under normal conditions of use. Indicators and load cells in all "one-of-a-kind" scale installations must have an active NTEP CC as evidence that the system meets the influence factor requirements of NIST Handbook 44 (2023 edition).

(9) If a person makes changes to a device to the extent that the metrological characteristics are changed, that specific device is no longer traceable to the active CC.

(10) If a person repairs or remanufactures a device, they are obligated to repair or remanufacture it consistent with the manufacturers original design; otherwise, that specific device is no longer traceable to an active CC.

(11) The manufacturer who copies the design of a device that is traceable to an active CC, but which is made by another company, must obtain a separate CC for the device. The CC for the original device does not apply to the copy.

(12) If a person buys a load cell(s) and an indicating element that are traceable to CCs and then manufactures a device from the parts, that person shall obtain an active CC for the device.

(E) The director is authorized to:

(1) Operate a participating laboratory as part of the national type evaluation program. In this regard, the director is authorized to charge and collect fees for type evaluation services.

(2) Cooperate with and enter into agreements with any person in order to carry out the purposes of this rule.

(F) All provisions of all orders and rules heretofore issued on this same subject that are contrary to or inconsistent with the provisions of this rule are hereby revoked.