TO BE RESCINDED

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

(A) Application. To recognize and enable participation in the national type evaluation program to serve the manufacturing industry and assure weights and measures officials, sellers, users, and buyers that a particular model or type of device is capable of meeting applicable requirements. This rule shall apply to types of devices and/or equipment as covered in national institute of standards and technology handbook 44, for which formal national type evaluation program evaluation criteria exist and to new technologies or device applications where the development of criteria is deemed necessary. This rule shall also apply to a device, when used in commerce, designed to meet unique demands for a specific installation and a specific design. In general, type evaluations are conducted on all equipment that affects the measurement process or the validity of a commercial transaction and/or all equipment to the point of the first indicated or recorded representation of the final quantity on which the transaction will be based.

(B) Definitions.

(1) "Certificate of conformance" means a document issued by the national conference on weights and measures established that the device, based on testing in participating laboratories, constitutes evidence of conformance of a type with the requirements of national institute of standards and technology handbook 44 as demonstrated using the test procedures in national conference on weights and measures, publication 14, national type evaluation program, administrative procedures, technical policy, checklists and test procedures.

(2) "Devices" mean instruments, and any appliances and accessories associated with such instruments, used in trade, commercial applications, or highway law enforcement for weighing and measuring which are subject to weights and measures requirements.

(3) "Director" means the director of the Ohio department of agriculture.

(4) "National type evaluation program" means a program of cooperation between the national institute of standards and technology, other federal agencies, the national conference on weights and measures, the states, and the private sector for determining, on a uniform basis, the conformance of type with the relevant provisions of national institute of standards and technology handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices as demonstrated using the test procedures in the national conference on weights and measures, publication 14, national type

evaluation program, administrative procedures, technical policy, checklists and test procedures.

(5) "One-of-a-kind device" means a device designed to meet unique demands for a specific installation and a specific design which is not commercially available elsewhere. If the manufacturer constructs an additional device or devices of the same type, the device is no longer considered to be one-of-a-kind. This definition also applies to any device that has been determined to be a one-of-a-kind device by a weights and measures jurisdiction in another state and the manufacturer decides to manufacture and install the device in this state. In this case, the device must be traceable to a certificate of conformance, unless the national type evaluation program has already decided that such evaluation will not be conducted.

(6) "Participating laboratory" means any state measurement laboratory that has been recongized by the national institute of standards and technology, in accordance with its program for the certification of capability of state measurement laboratories, or any state weights and measures agency or other laboratory that has been authorized to conduct a type evaluation under the national type evaluation program by the national conference on weights and measures.

(7) "Remanufactured device" means 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.

(8) "Repaired device" means a device to which work is performed that brings the device back into proper operating condition.

(9) "Type" means 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.

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

(C) The director shall require any weighing or measuring instrument or device to be traceable to a certificate of conformance prior to use for commercial or law enforcement purposes.

(D) "Certificate of conformance," specific requirements.

(1) No person shall sell for use in commerce a device unless the device is traceable to a certificate of conformance or the device is exempted by paragraph (E) of this rule.

(2) No person shall use in commerce a device unless the device is traceable to a certificate of conformance or the device is exempted by paragraph (E) of this rule.

(3) Commercial weighing or measuring devices installed and/or put in service shall be traceable to a certificate of conformance when the device is one of the following:

(a) Automatic bulk weighing systems,

(b) Automatic weighing systems,

(c) Axle-load weighers,

(d) Belt conveyor scales,

(e) Bench and counter scales,

(f) Bulk weighing systems,

(g) Card reader,

(h) Counter computing scales and non-computing scales,

(i) Crane scales,

(j) Device software that provides metrological calculations,

(k) Electronic cash registers attached to a scale,

(l) Electronic indicating elements - scales,

(m) Floor scales,

(n) Grain analyzer,

(o) Grain test scales,

(p) Hanging scales,

(q) Hopper scales,

(r) Jewelers scales,

(s) Liquid measuring devices,

(t) Liquefied petroleum gas meters,

(u) Livestock scales,

(v) Load cells,

(w) Mass flow meters,

(x) Milk meters,

(y) Monorail scales,

(z) Multiple dimension measuring device,

(aa) On-board weighing systems,

(bb) Railway track scales used to weigh in motion or static and combination railroad/vehicle scales,

(cc) Point of sale system,

(dd) Retail motor fuel dispensers, including those used for alternative fuels (for example, liquefied petroleum gas and compressed, liquid natural gas, natural gas, and hydrogen),

(ee) Service station consoles,

(ff) Taximeters,

(gg) Vehicle scales,

(hh) Vehicle tank meters and registers,

(ii) Weigh-in and weigh-out system,

(jj) Weighbeams - scales,

(kk) Weighing load receiving element,

(ll) Weight classifiers, and

(mm) Wholesale meters and controllers.

(4) Axle-load weighers and wheel-load weigher scales used for law enforcement put in service shall be traceable to a certificate of conformance.

(5) Existing devices modified to the extent that the design is metrologically changed (for example, a fully mechanical to fully electronic scale) shall be traceable to a certificate of conformance.

(6) The director may require other equipment and devices used in commerce that effect the measurement process or the validity of the transaction to be traceable to a certificate of conformance. The scope of these requirements is typically limited to devices for which formal type evaluation criteria exist, to devices for which definite criteria exist in handbook 44 and to a new technologies or device applications where the development of criteria is deemed necessary. Device categories specified in paragraph (D)(3) of this rule do not encompass all weighing and measuring devices used in commerce. Selection criteria is based, in part, upon commercial availability, evaluation procedure development and economic impact.

(7) Repaired devices. 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 certificate of conformance.

(8) Remanufactured devices. 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 the certificate of conformance.

(9) Copied devices. The manufacturer who copies the design of a device that is traceable to a certificate or conformance, but which is made by another company must obtain a separate certificate of conformance for the device. The certificate of conformance for the original device shall not apply to the copy.

(10) Device components. If a person buys a load cell(s) and an indicating element, which are traceable to certificates of conformance, and then manufactures a device from the parts, that person shall obtain a certificate of conformance for the device.

(11) Loaner devices. Loaner devices and main elements placed into service in a location shall be traceable to a certificate of conformance.

(E) Exceptions.

(1) A device in service in a fixed location prior to any certificate of conformance requirement shall not be required to be traceable to a certificate of conformance.

(2) A device in service prior to any certificate of conformance requirement, removed from service by the owner or by the state, county, or city weights and measures official, and then returned to service at a later date shall be required to meet applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(3) A device in service prior to any certificate of conformance requirement may be installed at another location in this state. Provided there is no charge of ownership and provided the device meets the applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(4) A device in service that is being repaired but parts, elements or instruments traceable to a certificate of conformance are not available, shall be required to meet applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(5) The director may accept the design of a one-of-a-kind device which is not traceable to a certificate of conformance pending the inspection and performance testing to satisfy that the device complies with handbook 44 and is capable of performing within applicable 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 a certificate of conformance as evidence that the system meets the influence factor requirements of handbook 44.

(F) 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.

(3) Conduct inspections and performance testing on one-of-a-kind devices and other devices not required by the national type evaluation program to be traceable to a certificate of conformance to satisfy that the device complies with applicable requirements. In this regard, the director is authorized to charge and collect fees for these evaluations.

(G) 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.

Replaces: 901:6-2-01

Effective:

Five Year Review (FYR) Dates: 8/9/2023

_____

Certification

_____

Date

Promulgated Under: 119.03
Statutory Authority: 1327.49, 1327.50
Rule Amplifies: 1327.49, 1327.50
Prior Effective Dates: 06/30/1984, 12/28/2001, 10/28/2010, 07/15/2016