

CECIP Response on the draft Ordinance amending the German Prepackaging Law

**Draft of the Federal Ministry of Economics and Energy – Ordinance amending the German Prepackaging Law (FPVO, 29. Jan. 2020)**

The draft ordinance of the Federal Ministry of Economics and Energy of 29 January 2020 for the amendment of pre-packaging legislation has, compared with the previous version of 2 October 2019, resolved the problem of the excessively short transitional period, but the amendments to Annex 7 have been retained.

New control measuring instruments, which will be used for the first time from 1.1.2022 for the control of prepackages, must comply with the new Appendix 7.

Existing instruments used for checking pre-packages before 31.12.2021 may continue to be designed in accordance with the old Appendix 7 until 31.12.2031.

1. **Requirements of the current Annex 7**

According to No. 1.1 of Annex 7 of the FPVO, which is still valid today, such measuring instruments are suitable as control measuring instruments,

(a) which are calibrated; and

(b) whose operational error limit is not greater than 0,2 times (i.e. T/5) the tolerable negative error of the prepackage to be tested

Additional requirement 1.1.1 requires that a non-automatic weighing instrument (NAWI) shall have a verification scale interval as shown in the table below:



Additional requirement 1.1.2 states that an automatic weighing instrument shall be at least of accuracy class XIII(1). There is no specification for the verification scale interval of the automatic weighing instrument.

1. **Requirements of the future Annex 7**

According to No. 1 of the new Annex 7 of the FPVO, such measuring instruments are suitable as control measuring instruments,

(a) which are conformity assessed or calibrated; and

(b) whose operational error limit is not greater than 0,2 times (i.e. T/5) the tolerable negative error of the prepackage to be tested

Additional requirement 1 (b) (aa) requires that a non-automatic weighing instrument (NAWI) shall have a verification scale interval as shown in the table below:



According to additional requirement 1(b)(bb) an automatic weighing instrument shall have at least accuracy class XIII(1) and its verification scale interval shall comply with the following table.



1. **Consequences of the amendment of the Annex 7**

Due to the first-time introduction of a table for the permissible verification scale interval of the automatic checkweigher (SKW) when checking prepackages in Germany, approx. 20% of the SKWs in the field will no longer be usable after the end of the above-mentioned transition period, as their verification scale interval are too large. Until now, every SKW of accuracy class XIII(1) was suitable. Higher verification scale interval were permissible.

**Users who were previously able to cover a very wide range of products with only one SKW will in future have to use several SKW with different verification intervals or multi-interval scales in the production line**. In addition, existing multi-interval scales cannot continue to be used unchanged because their weighing capacities will shift toward lower verification intervals. This leads to higher costs for the filling plant.

For scale manufacturers, the extension of the existing type examination certificate will be necessary, the existing series will have to be technically revised and possibly a change to alternative weighing technologies will be necessary. Both of these factors result in costs for manufacturers of SKWs and make market access more difficult for small and medium-sized companies.

The extension of type examination certificates also leads to increased testing/approval efforts for SKWs with the application target FPVO in Germany at the Notified Bodies for module B of the Measuring Instruments Directive 2014/32/EU (MID).

For the verification authorities in Germany, too, the increasing number of weighing instruments, especially multi-range weighing instruments, means additional work and expense, since with the latter, each weighing range must be verified as if it were a separate weighing instrument. The costs of verification increase accordingly.

The costs of the additional type tests and verification tests will be paid by the user, and therefore ultimately by the consumer. The specifications of the draft ordinance therefore have a significant effect on consumer costs.

Domestic and foreign SKW manufacturers, whose SKW are in conformity with the European measuring instrument guideline MID, cannot offer their scales in Germany as before, and as in other European Union states usual, unhesitatingly for the prepacking control in the market, but must analyze and consider particularly for Germany the suitability for the national German prepacking regulation. This is because the new table for the permissible verification scale interval of a SKW introduced in Annex 7 No. 1 b) bb) is even stricter than Table 3 of WELMEC Guide 6.4 for non-automatic weighing instruments (NSW). For packages with a nominal capacity between 7 kg and 10 kg, an NAWI with a verification scale interval of e=20g can be used, while in future the NAWI must have a verification scale interval of e=5g or less.

This is an **inadmissible disadvantage of the SKW compared to the NSW**.

1. **Examples of the impact**

The following two examples illustrate the effects.

**Example 1**

**Current dual-purpose scale for checking prepackages with nominal quantities from 100 g to 6 kg:**

**Max = 3 / 6 kg**

**e= 1 / 2 g**

According to the table for automatic checkweighers in the draft ordinance, this version can only be used for **testing from 175 g nominal filling quantity** and **no longer from 100 g**. To test a prepackage with a nominal filling quantity of 100 g in the future, a verification scale interval of 0.5 g is required.

Such a verification scale interval results in a balance with a weighing range of Max = 1.5 / 3 kg and verification scale interval e= 0.5 / 1 g.

This shows that the original weighing range of 6 kg is "lost" by this step, as the maximum capacity of the balance is reduced from 3 / 6 kg to 1.5 / 3 kg. For technical reasons, the general conditions of the balance are also considerably restricted at lower verification weights in order to be able to meet the required accuracy. For example, the maximum weighing belt dimensions must be reduced in order to pass the corner load test with the now smaller verification scale interval. Consequently, only geometrically smaller samples can be weighed.

Many users run packages of different sizes and nominal capacities on one production line. The automatic checkweighers available on these lines are designed accordingly. At the latest when the transitional provision expires, a weighing range in which packages can be checked would be eliminated when the scale is replaced, as shown above.

**CONCLUSION: Cost-intensive conversion of entire production lines**

**Example 2**

**3-range scale, 3000 scale intervals per range**

Range 1: 2500 - 15000 g, e=5 g

Range 2: - 30000 g, e=10 g

Range 3: - 60000 g, e=20 g

Nominal load cell capacity 100 kg.

Dead load by mounting 30 kg

With the change to require the verification scale interval of 5 g for checkweighing from 5000 g, this means that a verification scale interval of 2 g is required for the smallest nominal filling quantity of 2500 g up to now.

Required measures:

* Replace the load cell with a correspondingly smaller one that allows the verification scale interval to be 2 g. In this case, halve the nominal load of the load cell to 50 kg
* Omission of the range up to 60 kg.
* Check whether the 30 kg scale can be realized with the previous belt design (proof of compatibility). Due to the 30 kg dead load, the scale cannot even weigh 20 kg.

**Conclusion: A second scale is required in the production line, as well as additional measures, if necessary, to prevent the "smaller" of the two scales in the line from being overloaded by the large test loads of the larger scale.**

**Conclusion: In extreme cases, a second parallel production line is required for the other weight range, which is not always possible on site due to space constraints.**

1. **§41 Control and documentation obligations**

The currently still valid Prepackage Ordinance requires in §27 Para. 4 FPVO (old) that "the results of the inspections in accordance with Para. 1 must be recorded in accordance with the generally recognised rules of statistical quality assurance". According to Para 1 it is required doing that "in accordance with the generally recognised rules of statistical quality assurance". "The verification shall be carried out with control measuring instruments in accordance with Annex 7 and with generally recognised measuring methods".

Taking into account the possible ways of manufacturing or checking prepackages of the same nominal quantity, the **data to be documented would be up-to-date**:

1. in case of manufacture via **non-automatic weighing instruments**: according to the current interpretation of some calibration authorities, no documentation in the sense of §27 FPVO (old) is required
2. for (random) checks on **non-automatic weighing instruments**: statistical values
3. in the case of manufacture using verified **automatic weighing instruments** for weighing: according to the current interpretation of some verification authorities, no documentation as defined by §27 FPVO (old) is required
4. in case of control by **automatic checkweighers**: statistical values

The draft ordinance misleadingly formulates in **§41 para. 1 item 2**, however, possibly far-reaching documentation obligations:

 .... *"****results of measurements*** *or controls are to be recorded and stored in accordance with para 4".*

Since the above-mentioned procedures a) - d) are also generally based on **(individual) measurements** during manufacture or control, it can be misleadingly deduced from this requirement that the **individual values** **of the measurements** must be recorded. This would represent **a significant tightening of the previous documentation obligations**.

In particular in the case of manufacture or inspection in accordance with the above-mentioned points c) and d), no recording of the individual measured values or even transmission of these to other EDP devices is planned due to the normative design of the measuring instruments. For example, during a filling process on a calibrated SWA, the actual value is compared with the set target value until the corresponding nominal quantity of the prepackage is reached. Recording the individual weight values on a legal-for-trade package is considered a normative contradiction.

In the case of an automatic checkweigher used for 100% inspection, the measured values are statistically evaluated in relation to specific batches. In the case of an automatic checkweigher, there is also no recording of all individual measured values.

**The ambiguous documentation obligation according to §41 of the draft ordinance can therefore not be fulfilled with these two types of measuring instruments.**

Only for prepackages of the same nominal quantity > 10 kg, no records need to be kept, regardless of the procedure under Section 34(1) of the draft ordinance.

In the interests of uniform enforcement, we therefore see a need for the following clarifications in the text of the Ordinance:

* When non-automatic weighing instruments are used for statistical random sampling and when automatic checkweighers are used, §41 must emphasize that documentation of the results of statistical testing is sufficient.
* The documentation obligation under §41 shall be exempted if prepackages of the same nominal quantity < 10 kg are manufactured using verified and suitable non-automatic weighing instruments, automatic checkweighers or automatic weighing instruments for weighing.
1. **Automatic weighing scales for weighing (SWA)**

In the case of SWAs, the verification procedure in Germany is currently very inconsistent with regard to the question of which accuracy class is sufficient. For example, accuracy class X(1) is considered suitable for the same nominal quantity at one location, but X(0,2) is required at another location.

In order to create uniform enforcement throughout Germany, it is essential to add a third section to No. 1 b) of Annex 7:

"(cc) If automatic filling scales are used, they must comply with accuracy class X(1) or better.

1. **Summary**

**The VDMA considers this to be urgently necessary,**

* to delete the new table for SKWs in Annex 7 No. 1 b) bb), which was introduced arbitrarily and without justification and which has not been internationally harmonised.
* to maintain the documentation obligation in §41 para. 1 item 2 unambiguously at the current level
* to define the appropriate accuracy class X(1) for SWA nationwide.

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Heseding, 8.4.2020