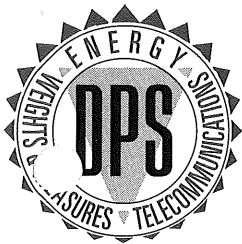


7/6/93
4



MINNESOTA
DEPARTMENT OF
PUBLIC SERVICE

WEIGHTS AND MEASURES DIVISION

June 16, 1993

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155-1201

Dear Ms. Hruby:

As required by Minn. Stat. Sec. 14.131 (1992), enclosed is a copy of a Statement of Need and Reasonableness regarding the matter of proposed rules governing weights and measures inspection fees, Minnesota Rules Part 7602.0100.

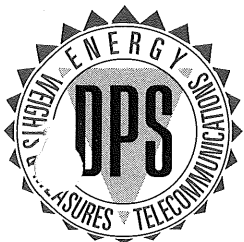
If you have any questions or concerns, please do not hesitate to contact the undersigned.

Respectfully,

Michael F. Blacik
Director

Enclosure





MINNESOTA
DEPARTMENT OF
PUBLIC SERVICE

WEIGHTS AND MEASURES DIVISION

July 19, 1993

Legislative Commission to Review Administrative Rules
Room 55
State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155-1201

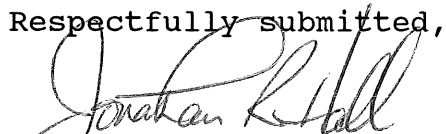
Re: Proposed Rule Governing Weights and Measures Inspection
Fees, Minnesota Rules Part 7602.0100

To the Committee:

Please find enclosed a copy of a Statement of Need and Reasonableness for the above-mentioned matter pursuant to Minn. Stat. sec. 14.131 (1992).

If your office has already received notification, please disregard this duplicate. If you have any questions or concerns regarding this notification, please contact the undersigned.

Respectfully submitted,


Jonathan R. Hall
Management Analyst II



**State of Minnesota
Department of Public Service**

**In the Matter of the Proposed
Rule Governing Weights and Measures
Inspection Fees, Minnesota Rules,
Part 7602.0100.**

**STATEMENT OF
NEED AND REASONABLENESS**

1) INTRODUCTION

The Department of Public Service is required by Minnesota Statutes, Section 239.101 (1993), to recover the full cost of all weights and measures related inspection and testing operations.

This Statement addresses only the proposed rule to increase inspection fees for scales, liquified petroleum gas meters and other non-petroleum volumetric measuring equipment.

2) STATUTORY AUTHORITY

The Department's authority to adopt such rules is set forth in Minnesota Statutes, Section 239.06 (1992).

3) STATEMENT OF NEED

Minnesota Statutes, Chapter 14 (1992), requires the Department to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. To the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires immediate attention. The need for the rule is discussed below.

The Department is required by Minnesota Statutes, Sections 239.101 (1993), to recover the full cost of all Weights and Measures Division operations. The 1993 Minnesota legislature

increased the Division's statutory cost recovery requirement to 100% of costs, plus administrative overhead costs. Current fees are not sufficient to recover the Department's fiscal year 1993 costs. The proposed fee increases are designed to recover all of the costs, as required by Minnesota Statutes.

4) STATEMENT OF REASONABLENESS

The Department is required by Minnesota Statutes, Chapter 14 (1992), to make an affirmative presentation of facts establishing the reasonableness of the proposed rule. Reasonableness means that there is a rational basis for the Department's proposed action. The reasonableness of the proposed rule is discussed below.

The proposed fees are designed to recover only those costs specifically required by statute. The total amount to be recovered in fiscal year 1993 will not exceed the actual cost of providing inspection and testing services. The fees have been approved by the Commissioner of Finance. A copy of the approval is attached.

The Department relies on flat rate fees, rather than straight hourly rates, to avoid many potential problems of miscalculation and misapplication. Each flat rate is based on the actual average cost of performing an individual inspection and test. The fees include the direct cost of the inspection, plus a proportional amount of overhead costs, including, department and inter-department administrative costs, equipment and travel costs, and the cost of certain inspection activities

for which direct fees are not possible. These activities include checkweighing prepackaged commodities, court appearances, and recycling notice distribution.

Beyond the basic increases in flat rate fees, there is one significant change in the Weights and Measures Division fee structure. For certain requested inspections, the Department proposes to add a "zone charge" to the standard flat rate fee.

This is not a new fee, but a replacement for the travel time charges that are presently added to some fees. Currently, inspectors charge by the hour when they drive long distances on special trips to inspect new equipment. The proposed zone charges will replace these hourly charges. The center of each zone will be the each inspector's home work station. The work stations will change as the Department's staff changes. The zone charges are clearly stated in the proposed rule. A map, illustrating the zones, is attached to this Statement.

5) SMALL BUSINESS CONSIDERATIONS

As required by Minnesota Statutes, Section 14.115 (1992), the Department has considered the impact of this proposed rule on small businesses. This proposed rule will impact small businesses. As a result, the Department has implemented the following applicable methods to reduce the impact of the rule on small businesses.

A) ESTABLISHMENT OF LESS STRINGENT REPORTING OR COMPLIANCE REQUIREMENTS.

Generally, the Department's flat rate fee system favors small businesses. The Department's actual cost to inspect weighing or measuring equipment is proportionally higher for a smaller business with fewer devices to be inspected. The cost is higher because the Department's overhead costs, including travel and administration, are approximately equal for all businesses, regardless of size. If these overhead costs were assessed separately, a smaller business would pay a higher amount per device tested. However, the flat rate system averages these costs. By this method, small businesses pay for a much smaller proportion of the overhead costs.

B) ESTABLISHMENT OF LESS STRINGENT SCHEDULES OR DEADLINES FOR COMPLIANCE OR REPORTING REQUIREMENTS.

All fees are payable in thirty days. However, the Department does not charge interest or assess penalties for late payment of fees. This benefits small businesses with unsteady cash flow. A business can delay payment without incurring interest costs.

C) CONSOLIDATION OR SIMPLIFICATION OF COMPLIANCE OR REPORTING REQUIREMENTS.

The burden imposed by any regulatory fee system is the cost to all of the regulated persons or businesses. This burden is statutorily mandated and cannot be avoided or reduced. The Department has made an effort to simplify all other aspects of the fee system. Invoicing and payment requirements are very direct and can be easily understood. Department field personnel

are trained to respond openly and honestly to all questions and concerns about the fee system.

D) ESTABLISHMENT OF PERFORMANCE STANDARDS TO REPLACE DESIGN OR OPERATIONAL STANDARDS REQUIRED IN THE RULE.

This method is not applicable to this proposed rule.

E) EXEMPTION OF SMALL BUSINESSES FROM ANY OR ALL REQUIREMENTS OF THE RULE.

Minnesota Statutes, Section 239.101 (1993), does not provide for any exemptions from the fees for any person or business that owns or operates commercial weighing and measuring equipment in Minnesota.

6) CONCLUSION

Based on the forgoing, the proposed Minnesota Rule, Part 7602.0100, is both needed and reasonable.

Dated: June 17, 1993


Krista L. Sanda, Commissioner
Department of Public Service