

State of Minnesota Department of Public Service

In the Matter of the Proposed Rule
Governing Specifications, Tolerances and
Other Technical Requirements for
Commercial Weighing and Measuring
Equipment, Governing Packaged Commodities,
and Governing Voluntary Registration in
the Placing-in-Service Program,
Minnesota Rules, Chapter 7601.

Statement Of Need And Reasonableness

1) Introduction

The Department of Public Service proposes to repeal Minnesota Rules, Chapter 7600, and replace it with Minnesota Rules, Chapter 7601. The Department proposes to amend its rules in this manner so that the resulting chapter will be clear, organized, and understandable. The proposed rule is not entirely new material. Many of the parts included in the proposed rule consist of modernized or revised versions of the rules proposed for repeal in Chapter 7600.

Chapter 7600 contains many requirements that are obsolete and poorly written. The entire chapter is poorly organized. The Department's clients find that Chapter 7600 is difficult to use and difficult to understand. However, although Chapter 7600 is poorly organized and difficult to use, the Department finds that some of the requirements remain effective and useful tools for weights and measures enforcement. The Department proposes to adopt simplified, modernized, or updated versions of requirements that remain useful and effective. The modernized requirements will appear in Chapter 7601.

Additionally, the Department finds that Chapter 7600 contains many obsolete and excessively restrictive design and accuracy requirements for railroad scales, grain hopper scales, and other equipment. The Department proposes to repeal these requirements.

The need for the proposed rule is discussed, in six broad areas of need, in the statement of need (see section 3) below. The reasonableness of each part of the proposed rule is discussed and explained in the statement of reasonableness (see section 4) below.

Section 5 of this statement includes a list of witnesses and exhibits for a public hearing on the proposed rule. A hearing on the proposed rule will be conducted if requests for a hearing are received from 25 or more persons. The list of witnesses includes the names of persons who will represent the Department of Public Service. The list of exhibits includes all of the documents that will be submitted to the Administrative Law Judge and entered into the hearing record.

As required by Minnesota Statutes, Section 14.115 (1994), the Department has considered the impact of the proposed rule on small businesses in Minnesota. Section 6 of this statement explains the Department's consideration of the five statutorily required methods to reduce the impact of the proposed rule on small businesses.

Section 7 of this statement explains the Department's consideration of whether the proposed rule will require the expenditure of public money by local public bodies.

Section 8 of this statement explains the Department's consideration of the impact of the proposed rule on agricultural lands in Minnesota.

2) Statutory Authority

Authority to adopt and amend rules pertaining to weights and measures is contained in Minnesota Statutes, Section 239.06 (1994).

3) Statement Of Need

Minnesota Statutes, Chapter 14 (1994), require the Department to make an affirmative presentation of facts establishing the need for and reasonableness of the rule as proposed. To the extent that need and reasonableness are separate, need means that there is a problem that requires immediate attention.

There are six broad areas of need addressed by the proposed rule. Following, are statements of need regarding each of these six areas:

- a) **NIST Handbook-44.** The Department of Public Service proposes to incorporate 1994 edition of National Institute of Standards and Technology Handbook-44. The new edition of Handbook-44 will replace the 1985 edition currently in use by the Department. Incorporation of the latest edition of Handbook-44 is necessary because the Department is required by Minnesota Statutes, Section 239.011, Subdivision 1 (1994), to "...promote uniformity, to the extent practicable and desirable, between the weights and measures requirements of Minnesota and those of other states and federal agencies." The purpose of NIST Handbook-44 is to create a uniform national system of weights and measures regulation. Other states regularly adopt the latest edition of

Handbook-44. Minnesota must adopt a current edition to maintain uniformity with the rest of the nation. Additionally, it is necessary to regularly incorporate a current edition of Handbook-44 because manufacturers of weighing and measuring equipment design their equipment to meet the most recent edition of NIST Handbook-44. If the Department were to enforce an edition of Handbook-44, significantly different from the most recent edition, it would be likely that many Minnesota businesses would be prohibited from installing and using the latest and most modern weighing and measuring equipment. Incorporation of the latest edition of Handbook-44 ensures that newly designed equipment can be accepted and used in Minnesota.

- b) **NIST Handbook-133.** The Department proposes to adopt NIST Handbook-133, with amendments through 1992. The proposed rule will incorporate new net weight accuracy requirements for packages. The new requirements contained in Handbook-133 will replace a peculiar and non-uniform net weight policy that the Department has enforced for more than 10 years. It is necessary, under the requirements of Minnesota Statutes, Section 239.011, Subdivision 1 (1994), to ensure uniformity with the rest of the nation by incorporating the package accuracy requirements of NIST Handbook-133. Minnesota businesses need a uniform system for package accuracy. Almost all businesses, that distribute packaged commodities on a national or regional level, design their net weight control systems to meet NIST Handbook-133. A state that maintains a non-uniform system of regulating package accuracy creates an additional burden for the packager, and considerable expense for the consumer, by requiring distributors of packaged commodities to distribute specialized packages for individual state jurisdictions.
- c) **National Type Evaluation Program (NTEP).** The Department proposes to require NTEP certification for new weighing and measuring equipment installed in Minnesota. This new requirement, also intended to meet the requirements of Minnesota Statutes, Section 239.011, Subdivision 1 (1994), is designed to maintain uniformity with the rest of the nation. NTEP is a national certification service for weighing and measuring equipment. It is operated by the National Institute of Standards and Technology. The proposed rule is needed because it will provide assurance that new weighing and measuring equipment will meet the design and technical requirements of NIST Handbook-44. Businesses need this assurance so that they can purchase new, and previously unseen, types of equipment with the full knowledge that the equipment has been designed to meet NIST Handbook-44 requirements. The Department proposes to require that all weighing and measuring equipment manufactured after January 1, 1996, and installed in Minnesota, must be certified by NTEP. The delay in implementing the requirement is needed to allow Minnesota-based equipment dealers to sell, or otherwise dispose of, non certified weighing and measuring equipment. The proposed rule will regulate only equipment manufactured after January 1, 1996.

This provision will allow existing, approved weighing and measuring equipment to remain in commercial service.

- d) **Vehicle scale installation requirements.** The Department proposes to add requirements to allow a new method of installing vehicle scales. The proposed rule is needed to allow vehicle scale owners to install “floating slab” foundations for above ground vehicle scales. This is a relatively new foundation design. Approximately 20 scales have been installed in Minnesota, on this type of foundation, under variances granted by the Department. The scale installations have proven to be reliable and durable.

Other vehicle scale requirements in the proposed rule are carried over from Chapter 7600. They are not new. Most have been enforced in Minnesota for more than 30 years.

- e) **Placing in service.** The Department proposes an extensive revision of the requirements for its voluntary placing in service registration program in Chapter 7600. Registrants in the program are granted limited authority to place new and repaired weighing and measuring equipment into commercial service, pending an inspection by the Department. The revision is needed because the existing rule in Chapter 7600 was poorly written and is difficult to understand. The proposed rule provides clear statements of authority and responsibility for the Department and the registrants. Additionally, the proposed rule includes a new requirement for a “problem resolution system.” The Department finds that it needs a clearly documented method to resolve problems involving the quality of work performed by some registrants in the placing in service program. The present rule states that the Director “...may inspect the work of a repairman [sic] at any time and may, for good cause, after careful investigation and consideration, suspend or revoke a certificate of registration.” The Department finds that it is necessary to change this rule because it does not define “good cause.” That is, the rule does not define any actions by a registered person that would cause the Director to suspend or revoke a certificate of registration. Further, the rule does not define or limit “suspension” or “revocation.” The Department finds that there is a need to change the rule because the Director cannot enforce the rule.

- f) **Obsolete requirements.** The Department proposes to repeal obsolete requirements for railroad track scales, heavy capacity grain hopper scales, and other types of weighing and measuring equipment. These requirements, contained in Chapter 7600, were written in the 1930's and 1940's. It is necessary to repeal the requirements because they are obsolete. Some of the rules proposed for repeal include highly specific requirements for the mechanical design and installation of scales. In some cases, the types of scales addressed by the rules are no longer produced or available. In other cases, the

rules proposed for repeal include obsolete and non-uniform accuracy requirements that cannot be applied to modern scales.

4) Statement Of Reasonableness

The Department is required by Minnesota Statutes, Chapter 14 (1994), 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.

In general, the Department has determined that the proposed rule is reasonable because it is designed to comply with Minnesota Statutes, Section 239.06 (1994), which require the Department to: "Prescribe and adopt such rules as it may deem necessary to carry out the provisions of this chapter, and it may change, modify, or amend any or all rules when deemed necessary and the rules so made shall have the force and effect of law."

Specifically, the reasonableness of each part of the proposed rule is discussed below.

Part 7601.0100. DEFINITIONS.

All of the definitions included in this part are reasonable because they define technical terms and other terms used in the proposed rule. The definitions are important because many of the technical terms are peculiar to weights and measures enforcement and to the weighing and measuring equipment industry.

Subpart 1. Scope. This part limits the applicability of the definitions to terms used in Minnesota Rules, Chapter 7601.

Subpart 2. Animal scale and livestock scale. These terms define specialized scales used to weigh livestock. An animal scale is used to weigh a single animal. A livestock scale is used to weigh several animals simultaneously. The terms are used in parts 7601.4000 to 7601.4040, and may be used in other parts of the proposed rule.

Subpart 3. Commercial; commercial use; commercial purpose. The terms are used throughout the proposed rule. The definition is functionally equivalent to statutory terminology that delineates the extent of the Department's enforcement authority. The Department is authorized by Minnesota Statutes, Section 239.011, Subdivision 2, paragraph 10 (1994) to test and inspect only commercial weighing and measuring equipment. Commercial weighing and measuring equipment is any equipment that is used to determine the weight, measure or count of commodities offered for sale, or to determine a basic charge for services rendered on the basis of weight, measure or count.

Subpart 4. Commissioner. This part defines the Commissioner of the Department of Public Service. It is functionally identical to the definition in Minnesota Statutes, Section 239.05, Subdivision 6c. (1994).

Subpart 5. Department. This part defines the Department of Public Service. It is functionally identical to the definition in Minnesota Statutes, Section 239.05, Subdivision 7a. (1994).

Subpart 6. Director. This part defines the Director of the Weights and Measures Division of the Department of Public Service. It is functionally identical to the definition in Minnesota Statutes, Section 239.05, Subdivision 8 (1994).

Subpart 7. Division. This part defines the Weights and Measures Division of the Department of Public Service. It is functionally identical to the definition in Minnesota Statutes, Section 239.05, Subdivision 8c. (1994).

Subpart 8. Hopper scale. The term “hopper scale” is defined as a scale that is used to weigh bulk commodities in a container that is mounted on the scale. The term is used in Parts 7601.2000 and 7601.5000, and may be used in other parts of the proposed rule.

Subpart 9. Minimum division. The term “minimum division” defines the smallest measurement increment that a weighing or measuring device is designed to indicate or display. For example, most grocery store scales display a minimum division equal to 0.01 lb. The term is used in Part 7601.0200, in NIST Handbook-44, and may be used in other parts of the proposed rule.

Subpart 10. Minnesota seal. The term “Minnesota seal” is used to define a security seal that Department employees place on the adjustment mechanism of commercial weighing and measuring equipment. The term is used in Parts 7601.7000 through 7601.7100, and may be used in other parts of the proposed rule.

Subpart 11. National Institute of Standards and Technology (NIST). The term “NIST” defines the National Institute of Standards and Technology, an agency within the United States Department of Commerce. The term is used throughout the proposed rule.

Subpart 12. National Type Evaluation Program (NTEP). This term describes a program of the National Institute of Standards and Technology. The program evaluates new models of weighing and measuring equipment to determine compliance with NIST Handbook-44. New models are certified. Certification helps reduce the amount of time required for inspection when a new model is installed for commercial use. This term is used in Part 7601.1010, and may be used in other parts of the proposed rule.

Subpart 13. Place in service. The term “place in service” defines an action performed by a person registered with the Division to repair weighing and measuring equipment, and authorize commercial use of the equipment pending an inspection by the Division. The term is used in Parts 7601.7000 through 7601.7100, and may be used in other parts of the proposed rule.

Subpart 14. Railroad track scale. The term “railroad track scale” defines a specialized, heavy capacity scale used to weigh rail cars. The term is used in Parts 7601.3000 through 7601.3030, and may be used in other parts of the proposed rule.

Subpart 15. Registered person; registrant. The terms “registered person” and “registrant” define persons registered with the Division to repair weighing and measuring equipment, and authorize commercial use of the equipment pending an inspection by the Division. The terms are used in Parts 7601.7000 through 7601.7100, and may be used in other parts of the proposed rule.

Subpart 16. Registration certificate. The term “registration certificate” defines an authorization issued by the Director to a person who is qualified to repair weighing and measuring equipment and place the equipment into commercial service, pending an inspection by the Division. The term is used in Parts 7601.7000 through 7601.7100, and may be used in other parts of the proposed rule.

Subpart 17. Scale Division. The term “scale division” defines the smallest unit of weight that can be indicated by a scale indicator. The term is used in NIST Handbook-44, proposed for incorporation under part 7601.1000, and may be used in other parts of the proposed rule.

Subpart 18. Sensitivity requirement. The term “sensitivity requirement” defines a measurement of the mechanical or electronic response of a scale indicator when a specified weight is placed on the scale platform. The term is used in Part 7601.2010, in NIST Handbook-44, and may be used in other parts of the proposed rule.

Subpart 19. Soil bearing. The term “soil bearing” is a standard engineering definition of the amount of force (in this case, force is represented as weight) required to cause a soil sample to deform or collapse under load. The term is used in Parts 7601.3000 through 7601.4040, and may be used in other parts of the proposed rule.

Subpart 20. Vehicle scale. The term “vehicle scale” defines a specialized heavy capacity scale used to weigh trucks and other highway vehicles. The term is used in Parts 7601.4000 through 7601.4040, and may be used in other parts of the proposed rule.

Subpart 21. Weighing and measuring equipment. The term "weighing and measuring equipment" generically describes scales, meters, and other measuring devices used to determine a quantity to be purchased, or a charge for services rendered on the basis of weight or measure. The term is used throughout the proposed rule, and is functionally identical to the statutory definition of "weights and measures" in Minnesota Statutes, Section 239.05, Subdivision 18 (1994).

Part 7601.0200. VARIANCES.

Subpart 1. Director to grant. This subpart authorizes the Weights and Measures Division Director to grant variances to rules in Chapter 7601, including rules incorporated in NIST Handbook-44. It also limits the authority so that the Director cannot grant a variance to a rule that specifies a tolerance or minimum division value.

Subpart 2. Request. This subpart allows any owner or operator of commercial weighing and measuring equipment to apply to the Director, in writing, for a variance to Department rules. This subpart also specifies information that must be included in the request. The subpart uses the permissive term "may," rather than the restrictive term "shall," because owners and operators are allowed, but not required, to request variances.

Subpart 3. Approval criteria. This subpart sets forth the criteria that the Director must use in deciding whether to grant a request for a variance.

Subpart 4. Refusal to grant. This subpart requires the Director to refuse a request for a variance if the request does not meet the requirements of subpart 2.

Subpart 5. Response by division to request. This subpart requires the Weights and Measures Division to respond in writing to all variance requests.

The variance criteria proposed in Part 7601.0200 are reasonable because the Director must be able to grant variances to:

- a) Allow installation of new types of weighing and measuring equipment that will meet the latest edition of the uniform national codes contained in NIST Handbook-44, but may not meet the requirements of the edition of the handbook incorporated into Minnesota Rules; and
- b) Allow installation of weighing and measuring equipment in special circumstances where it is impossible to comply with some of the requirements in the proposed rule. For example, vehicle scales are occasionally installed directly on bedrock where it is impossible to install a foundation in compliance with the proposed rules.

The proposed requirement that all variance transactions must be written is also reasonable to ensure that the Division and the requester have permanent documentation of a variance request and its resolution.

Part 7601.1000. NIST HANDBOOK-44 INCORPORATED BY REFERENCE.

Subpart 1. NIST Handbook-44 (1994). Formerly Part 7600.6800. The proposed rule incorporates the 1994 edition of NIST Handbook-44 with three exceptions. Handbook-44 is a uniform national code containing specifications, tolerances and other requirements for weighing and measuring equipment. The Department has enforced NIST Handbook-44 since 1966. Earlier requirements, which were very similar to NIST Handbook-44, were enforced from approximately 1926 through 1965. Two of the exceptions have been in effect since the 1965 edition of NIST Handbook-44 was incorporated in 1966. The third exception is new. All three exceptions are explained below.

Subpart 2. Location. NIST Handbook-44 is available for reference at the State Law Library.

This proposed rule is reasonable because it consists of an update to a more recent edition of codes that are currently enforced in Minnesota. Incorporating the 1994 edition of NIST Handbook-44 will allow Minnesota to maintain weights and measures code uniformity with the rest of the nation. Uniformity is important because manufacturers produce weighing and measuring equipment designed to meet the most recent edition of NIST Handbook-44. Incorporating the most recent edition of NIST Handbook-44 ensures that owners and users of weighing and measuring equipment will have access to the most modern equipment, and that they will not be limited or restricted by out of date requirements.

The proposed rule makes three exceptions to parts of NIST Handbook-44. The Department believes that the first two exceptions have been in effect since the 1965 edition of NIST Handbook-44 was adopted in 1966. The first exception provides that if NIST Handbook-44 conflicts with any Minnesota laws or rules, the laws or rules of Minnesota shall govern. This is reasonable because it ensures that Handbook-44 cannot be interpreted to supersede Minnesota laws and rules. Minnesota Statutes, Section 239.06 (1994), grants rule making authority to the Department, but not to the national code writing body that produces Handbook-44.

The second exception was added in 1966 at the request of the Minnesota Grocers Association. It allows commercial use of scales that compute prices on the basis of 1 lb, 1/2 lb, and 1/4 lb increments. Such scales are prohibited by NIST Handbook-44, but are commonly used in grocery stores in Minnesota. The Minnesota Department of Agriculture allows price advertising of foods on the basis 1 lb, 1/2 lb, and 1/4 lb increments. The exception to the Handbook-44 requirement is reasonable because it ensures that Department of Public Service rules are compatible with

Department of Agriculture Rules, and it ensures consistent and understandable price advertising and price computation in retail grocery stores.

The third proposed exception is new. It has been added to the proposed rule at the request of the Minnesota Petroleum Marketers Association. The request was received as a comment in a previous rule making procedure. The previous procedure was terminated before the proposed rule was adopted. The 1994 edition of NIST Handbook-44 contains a requirement that a gasoline pump with dual pricing capability (different prices for cash sales or credit sales) must have customer operated controls to select the price. In 1999, the requirement would become retroactive and enforceable against equipment that had been installed, in full compliance with Handbook-44, through 1998. The proposed exception to this requirement is reasonable because many gasoline station owners will replace their gasoline pumps before 1998, in parallel with efforts to comply with federal underground storage tank regulations. If the requirement were to be left in effect, many new gasoline pumps, installed from 1994 through 1998, would fail to comply in 1999. The pumps would have to be replaced or modified in 1999. The Department believes that underground storage tank replacement is a vital, and very expensive, necessity that must be given a higher priority than the issue of customer selected prices on gasoline pumps. The Department believes that it would be unwise to impose an additional financial burden, resulting from a change in gasoline pump requirements, on the retail gasoline industry in 1999.

Part 7601.1010. NIST HANDBOOK-44; COMPLIANCE REQUIRED.

Subpart 1. Compliance. This proposed subpart requires owners and operators of commercial weighing and measuring equipment to comply with the requirements of NIST Handbook-44. It also allows that only the Weights and Measures Division Director, or an employee delegated by the Director, shall determine the applicability of, and compliance with, the requirements of Handbook-44.

Subpart 1 is reasonable because it clearly states that owners and operators of commercial weighing and measuring equipment are required to comply with NIST Handbook-44. Although compliance will be required by incorporating the handbook into Part 7601.1000, the Department believes that this clear statement will be a useful tool when circumstances require an inspector to explain the Department's authority to one of the Department's clients. Additionally, by allowing only the Director or a delegated employee to determine the applicability of, or compliance with the, requirements of NIST Handbook-44, Subpart 1 reasonably affords a limitation that is intended to enhance consistency in interpretation and enforcement of NIST Handbook-44 standards.

Subpart 2. NTEP Certification. NTEP is the National Type Evaluation Program, operated by the National Institute of Standards and Technology. This proposed rule requires sellers, installers, owners, and operators of commercial

weighing and measuring equipment to install and use only NTEP certified equipment after January 1, 1996.

Subpart 2 is reasonable because it prohibits, after January 1, 1996, the sale or installation of newly manufactured weighing and measuring equipment that has not received an NTEP certificate of compliance. Equipment certified by NTEP is known to comply with the requirements of NIST Handbook-44. This subpart of the proposed rule benefits equipment sellers, installers, owners, and operators by simplifying the selection process for new, and previously unseen, weighing and measuring equipment. It will also help to prevent deceptive sales of equipment that may not comply with NIST Handbook-44.

Part 7601.1020 NIST HANDBOOK-133 INCORPORATED BY REFERENCE.

Subpart 1. NIST Handbook-133. This proposed subpart incorporates by reference the 1988 edition, with supplements through 1992, of NIST Handbook-133, entitled "Checking the Net Contents of Packaged Goods." The handbook contains comprehensive packaging requirements and inspection procedures for commodities packaged by weight, count, or measure.

Subpart 2. Location. This proposed subpart states that NIST Handbook-133, including its supplements, is available at the Minnesota State Law Library.

The Department has enforced package accuracy requirements for many years. However, the proposed rule includes requirements that are different from those currently enforced by the Division. NIST Handbook-133 allows variations in the net contents of individual packages, but requires the average net content of a complete lot of packages to equal or exceed the stated net content. Current Department policy allows a narrower range of individual package errors, but an aberration in the policy can allow the average net content of a complete lot of packages to be less than the stated net content.

The proposed rule is reasonable because it will eliminate a slight consumer disadvantage allowed under current Department policy. Additionally, incorporation of NIST Handbook-133 will bring Minnesota into a uniform national system of package regulation and package checking procedures. Handbook-133 has been adopted by at least 47 other states, districts and territories.

Adopting and enforcing the requirements in Handbook-133 will benefit consumers and businesses. Consumers will benefit because Handbook-133 requirements allow fewer short-weight and short-measure packages than allowed by current Department policy. Businesses engaged in interstate commerce will benefit because Minnesota will enforce the same packaging requirements as most other states. Generally, businesses find that it is simpler and less expensive to comply nationally with one uniform packaging requirement. Businesses not engaged in interstate

commerce may also benefit from the adoption of Handbook-133. Business operators find that, to comply with NIST Handbook-133, they must exercise good control over their packaging operations. A packaging operation that is in control minimizes losses to the business and its customers.

REQUIREMENTS FOR SCALES, GENERALLY

Part 7601.2000 PROTECTION FROM THE ENVIRONMENT.

Formerly Part 7600.7750. The wording, meaning, and function of the proposed rule are identical to Part 7600.7750. Only the part number is changed.

Subpart 1. Outdoor scales. The proposed rule specifies protective measures that the Division will require if an outdoor scale is adversely affected by weather or other environmental factors. The protective measures include protection from wind, improved drainage, or, in extreme cases, a complete building to cover a scale.

Subpart 2. Fertilizer scales. The proposed rule requires installation of a complete building around hopper and tank scales used to weigh fertilizer.

NIST Handbook-44 is a uniform national code. It is impossible for Handbook-44 to contain specific climate-related requirements for outdoor scales in every region of the country. This proposed rule contains specific requirements for protection from weather, radio frequency interference, electromagnetic interference, and other environmental factors. The proposed rule is reasonable because it clarifies and adds specificity to section G-UR.1.2. of the General Code of NIST Handbook-44. It does not differ from the Handbook-44 code, which requires that "equipment shall be suitable for the environment in which it is used..." This clarification is reasonable because it defines and limits additional protective measures that the Department will require for an outdoor scale, if the scale is adversely affected by the environment. Additionally, the Department had many years of experience with fertilizer hopper scales located outdoors. These scales usually deteriorated to an unusable and unrepairable condition in less than three years. Enclosing a fertilizer hopper scale greatly extends the useful life of the scale. These requirements, formerly in Part 7600.7750, have been in effect since 1985.

Part 7601.2010 SENSITIVITY REQUIREMENT.

Formerly Part 7600.7210. The proposed rule is designed to modify a requirement in NIST Handbook-44. It allows a decrease in sensitivity for certain scales. The wording, meaning, and function of the proposed rule are identical to Part 7600.2010. Only the part number is changed. The proposed rule is reasonable because it allows a large number of older scales to remain in commercial service in Minnesota. An odd technicality, involving the wording of the sensitivity requirements in NIST Handbook-44, would preclude these older scales from compliance. The Department finds that these older scales are at least as sensitive, and at least as accurate and

reliable, as modern scales, and that there is no need to enforce a provision of NIST Handbook-44 that would remove these scales from commercial service.

RAILROAD TRACK SCALES

Part 7601.3000 RAILROAD TRACK SCALES; PLANS.

Formerly Part 7600.0400. The wording of the proposed rule is revised, but the meaning and function are identical to Part 7600.0400.

Subpart 1. Manufacturer's plans. This subpart requires the manufacturer of a railroad track scale to provide complete plans and drawings to the purchaser.

Subpart 2. Installer's plans. This subpart requires the scale owner to provide portions of the installation plans, pertaining to scale location and the foundation, for review and approval by the Director prior to installing the scale.

The proposed rule is reasonable because a scale owner cannot correctly install, and subsequently maintain, a complex and expensive system like a railroad track scale without having access to the design and installation plans. Additionally, it is reasonable to require the owner to submit the plans to the Director before installing a scale. Effective and helpful intervention by the Department, prior to installation, can eliminate many compliance problems. These requirements, in the proposed rule and in Part 7600.0400 of the former rule, have been in effect for approximately 50 years.

Part 7601.3010 RAILROAD TRACK SCALE PERMITS.

Formerly Part 7600.0500. The wording of the proposed rule is revised, but the meaning and function are identical to the former rule. The proposed rule requires the Director to review plans and issue a permit to install a railroad track scale. The proposed rule prohibits installation of a railroad track scale without a permit. The proposed rule is a reasonable final step to the review process in Part 7601.3000. Railroad track scale installations are very expensive. An installation permit is reasonable because it gives a scale owner written assurance, before beginning the expensive construction and installation processes, that the designs for the foundation and scale are in compliance with Department rules.

Part 7601.3020 RAILROAD TRACK SCALE FOUNDATION.

Subpart 1. Soil bearing. Formerly Part 7600.2100, Subpart 1. The proposed rule specifies that a person who installs a railroad track scale must test the soil at the installation site to determine whether it has sufficient load bearing capacity to support the scale. The proposed rule is a revised version of the former requirement in Part 7600.2100, Subpart 1. The revision is reasonable because it preserves much of the intent and meaning of the original rule. However, the revision eliminates an

unreasonable requirement for a soil bearing capacity of 4,000 pounds-per-square-foot. Instead, the proposed rule allows any reasonable soil bearing capacity that will support the actual soil load of a fully loaded railroad track scale. The proposed rule includes an additional requirement for an engineering report to be submitted to the Weights and Measures Director. This requirement is functionally equivalent to the compliance and permitting requirement in a former rule, Part 7600.0500. The requirement for an engineering review is reasonable because the review will help to ensure that a scale foundation will be constructed, without needless expense, on a sound and durable soil base.

Subpart 2. Materials and construction. Formerly Part 7600.2100, Subpart 2. The wording of the proposed rule is a revised and modernized version of Part 7600.2100, Subpart 2. The proposed rule requires a poured, reinforced concrete foundation for a railroad track scale. The former rule had become obsolete and unreasonable because it contained several obsolete requirements that set extremely detailed dimensional and material specifications for railroad track scale foundations. The proposed rule is reasonable because it sets very general requirements that will ensure long term performance without specifying scale design. The Department does not wish to specify scale design because such design requirements are burdensome and rapidly become obsolete. Additionally, the proposed rule is reasonable because it reflects modern scale foundation construction practices.

Subpart 3. Dimensions. Formerly Part 7600.2100, Subpart 3. The wording of the proposed rule is a revised and modernized version of Part 7600.2100, Subpart 3. The proposed rule specifies that a railroad track scale foundation must be at least seven feet deep. The proposed rule is reasonable because it requires a scale foundation depth that is suited to Minnesota's climate, and will ensure that the foundation remains stable in the extreme frost conditions encountered in the state. Additionally, the proposed rule is reasonable because it reflects modern scale installation practices.

Subpart 4. Length. Formerly Part 7600.3000, Subpart 2. The wording of the proposed rule is a revised and modernized version of Part 7600.3000, Subpart 2. The former rule included an obsolete requirement for a scale length of 50 feet, and another obsolete requirement limiting scales to four sections (four pairs of main load bearing points). The former rule was unreasonable because fifty foot railroad track scales are impractical and have not been installed in Minnesota for many years. Additionally, the former rule had become unreasonable because there are several modern scale designs comprised of more than four sections. The proposed rule specifies that a railroad track scale installed after January 1, 1995 must be long enough to allow single draft weighing of rail cars. The proposed rule is reasonable because single draft weighing is essential for accuracy. Additionally, the proposed rule is reasonable because it reflects modern scale installation practices, and because it allows flexibility in scale design and installation by removing the unreasonable length and design requirements of the former rule.

Part 7601.3030 APPROACH RAILS AND PIERS.

Subpart 1. Approach rails. Formerly Part 7600.3100, Subpart 4. The proposed rule requires a straight, level, 50 ft approach to each end of a railroad track scale. The former rule specified rail end clearances and did not include a length requirement. The proposed rule is reasonable because it reflects the scale approach recommendations of the American Railroad Engineers Association.

Subpart 2. Approach panels. Formerly Part 7600.3000, Subpart 5. The proposed rule requires a 25 foot concrete approach panel to support the approach rails at each end of a railroad track scale. The former rule required approach piers 15 feet long and approximately 10 feet deep. The proposed rule is reasonable because it reflects the scale installation requirements of the American Railroad Engineers Association. Additionally, the proposed rule is reasonable because approach panels will be more stable, and much less expensive to install than the approach piers required by the former rule.

VEHICLE AND LIVESTOCK SCALES

Part 7601.4000. VEHICLE AND LIVESTOCK SCALES; PLANS.

Subpart 1. Scales installed by buyer. Formerly Part 7600.7700, Subpart 1. The proposed rule is identical to the former rule. Subpart 1 of the proposed rule requires a manufacturer to provide complete installation plans and drawings to a person who purchases a vehicle or livestock scale. In most cases, a vehicle or livestock scale is not installed by the manufacturer. It is installed by a construction company under a contract with the scale owner. The proposed rule is reasonable because vehicle and livestock scales cannot be installed correctly without the manufacturer's plans and drawings.

Subpart 2. Above-ground vehicle and livestock scales. Formerly Part 7600.7700, Subpart 2. The proposed rule is identical to the former rule. The proposed rule requires the prospective owner of an above ground vehicle or livestock scale to submit plans to the Director prior to installing the scale. The Director must approve the plans. The proposed rule is reasonable because it gives the Department an opportunity to work with the scale owner and installer to prevent any installation mistakes that would result in inaccurate weighing, and, ultimately, shorten the useful life of a scale.

Subpart 3. Floating concrete slab foundation. The proposed rule is new. It requires the prospective owner of an above ground vehicle or livestock scale (that is, a scale to be installed on a floating concrete slab) to submit plans to the Director prior to installing the scale. The Director must approve the plans. The intent of the proposed rule is to allow vehicle and livestock scales to be installed on a new type of foundation. The proposed rule is reasonable because its primary purpose is to give scale owners and

installers the benefit of the experience the Department has gained from observing many installations. The Department's advice and assistance will reduce installation mistakes and ensure the accuracy and long term reliability of vehicle and livestock scales installed on floating slab foundations. The reporting requirements in the proposed rule are identical to reporting requirements that have been in effect since 1985 for above ground scales installed on pier type foundations. The reporting requirements are reasonable because they duplicate the system that the Department has used successfully to ensure the correct installation of above ground scales on pier type foundations.

Part 7601.4010. VEHICLE AND LIVESTOCK SCALE FOUNDATIONS.

Subpart 1. Generally. Formerly Part 7600.7900, Subpart 1. The proposed rule requires all vehicle and livestock scales to be installed on a reinforced, poured concrete foundation that is designed to support the weight of the fully loaded scale without significant settling or cracking. The rule also requires that weighing element supports must be securely fastened to the foundation. The proposed rule is similar in form, and identical in function, to Part 7600.7900. The proposed rule is reasonable because it requires a stable foundation. A scale can provide accurate weighing only if the foundation or weighing element supports do not move when they are loaded, and if the foundation cannot shift or crack from the affects of frost or soil movement.

Subpart 2. Pit-type scale foundation. Formerly Part 7600.7900, Subpart 2. The proposed rule sets forth foundation design and dimensional requirements for a vehicle or livestock scale installed in a pit-type foundation. The wording of the proposed rule is revised by adding a paragraph. The meaning and function of the proposed rule are identical to Part 7600.7900, Subpart 2. The added specification, in Paragraph (E), requires that the foundation must extend below the local frost line. The requirement was formerly found in Part 7600.7900, Subpart 1. It has been deleted from Subpart 1, and duplicated in the proposed subpart to accommodate the addition of Subpart 4. The proposed rule is reasonable because it requires, in general terms, a foundation design that has proven for more than 30 years (such foundations were first required Department rules in 1966, but were commonly installed before 1966) to be a reliable and durable design for Minnesota's climate.

Subpart 3. Above-ground scale; concrete pier foundation. Formerly Part 7600.7900, Subpart 3. The proposed rule is a revised version of Part 7600.7900, Subpart 3. The proposed rule contains design requirements for above ground, pier-type vehicle or livestock foundations. The former rule, adopted in 1985, contained an unreasonable requirement for a concrete surface slab connected to the foundation piers. This design proved to be susceptible to frost damage. Since approximately 1989, the Department has required, under a standardized variance, installation of an updated and improved foundation for above ground scales. The proposed rule is reasonable because it requires the same foundation design that has proved, since 1989, to be durable and reliable.

The former rule contained an unreasonable requirement for electrically heating the foundation surface. This requirement proved to be unnecessary in most installations. Scale repair companies developed simpler and less expensive methods to prevent snow and ice build-up under scale platforms. The Department has issued a standard variance to eliminate this requirement for most above ground scales that have been installed in Minnesota since 1990. The Department proposes to replace the unreasonable requirement with new and reasonable requirement for replaceable heating tapes. The Department would require heating tapes on a case by case basis, and only when inspection demonstrates that snow and ice build-up consistently degrade scale accuracy. This proposed requirement is reasonable because it requires installation of a simple, inexpensive, and practical heating system only in cases where the need for such a system has been demonstrated.

Paragraph (I) has been added to require that the foundation piers must extend below the local frost line. This requirement was formerly found in Part 7600.7900, Subpart 1. It has been deleted from subpart 1, and duplicated in the proposed subpart to accommodate the addition of Subpart 4. The proposed rule is reasonable because it requires a stable foundation that will not be affected by frost. A stable foundation is an absolute necessity for accurate weighing. Additionally, the proposed rule is reasonable because it does not add or alter any requirements for above-ground concrete pier scale foundations. It is simply one segment of a complete restructuring of Department rules.

Subpart 4. Above-ground scale; floating concrete slab foundation. This proposed rule contains a new set of specifications to allow a vehicle or livestock scale to be installed on a newly developed type of concrete foundation. This type of foundation is constructed of a thick, heavily reinforced concrete slab to support the scale. The foundation, which is similar in design to a heavy duty roadway, is poured on top of a specified layer of compacted aggregate, and does not extend below the normal frost line. The proposed rule is reasonable because floating concrete slab foundations are, in most cases, less expensive and less time consuming to install than earlier types of foundation designs. During the last two years, the Department has granted variances to allow installation of approximately 20 floating slab foundations. The Department finds that scales installed on these foundations are durable and reliable.

Part 7601.4020 VEHICLE AND LIVESTOCK SCALE APPROACHES.

Formerly Part 7600.7500. The proposed rule is identical to Part 7600.7500. The proposed rule requires a concrete approach panel at each end of a vehicle or livestock scale. The approach panel must be at least 10 feet long, or one-third the length of the scale platform, whichever is greater. The proposed rule is reasonable because it preserves the original intent and meaning of a requirement that has been enforced in Minnesota since approximately 1966. Additionally, it is reasonable for the Department to require approaches to scales because the approaches allow the scale to be used in all weather conditions, and because smooth approach panels afford smooth access to the scale and eliminate shock loading to the scale structure. The proposed

rule supersedes, and is less stringent than, an approach requirement in NIST Handbook-44.

Part 7601.4030 ANIMAL AND LIVESTOCK SCALES; PRINTER REQUIRED.

Formerly Part 7600.7800. The proposed rule requires an animal or livestock scale to be equipped with a printer. The meaning and function of the proposed rule are identical to the former rule. The proposed rule is a revised version of Part 7600.7800. It has been revised so that the rule clearly applies to modern scale indicators and printers. The proposed rule is reasonable because the United States Department of Agriculture, Packers and Stockyards Administration requires that all livestock transactions must be accompanied by a printed weight ticket. The printer required by this proposed rule will provide livestock scale owners and their customers with the equipment necessary to meet the USDA requirement.

Part 7601.4040 ANIMAL AND LIVESTOCK SCALES; TOLERANCES.

Subpart 1. Tolerance. Formerly Part 7600.7200, Subpart 1. This proposed subpart is functionally identical to part 7600.7200. It has been in effect since 1985. It sets two special tolerances that are applied only to livestock and animal scale tests. These tolerances are smaller (approximately half) than the tolerances set by NIST Handbook-44.

The proposed rule is reasonable because it reduces errors in livestock weighing. Livestock is an expensive commodity. Small weighing errors are costly. By reducing the tolerance, this proposed rule reduces the potential for error on scales that are within tolerance. Additionally, the proposed rule is reasonable because, in the past, it has been supported by the United States Department of Agriculture, Packers and Stockyards Administration.

Subpart 2. Shift test tolerance. Formerly Part 7600.7200, Subparts 2 and 3. This proposed subpart combines a requirement and definition formerly contained in subparts 2 and 3. It has been in effect since 1985. The proposed rule is functionally identical to the former rule. The proposed rule requires that a shift test must be performed when a livestock scale is tested. It allows the errors found at two load bearing points in the same section to be added together to determine compliance with the tolerance requirement in subpart 1 of the proposed rule. This proposed subpart also contains a definition of the term "section."

This proposed subpart sets a special compliance requirement to be applied to all animal and livestock scales. The proposed rule will be especially helpful for an older type of mechanical livestock scale commonly used in Minnesota. This scale's weighing system consists of two "A" shaped main levers. It is usually identified as an "A-lever" or "type-A" design. These scales are accurate and reliable. However, it is not possible to adjust individual load bearing points on a "type-A" scale. This requirement allows

small errors observed at individual load bearing points to be added together to determine whether the "section" that includes two connected load bearing points will be within tolerance. This subpart is reasonable because it addresses a specific testing problem that does not accurately reflect the way a livestock scale is used, and because it creates a test calculation method that is a more accurate reflection of actual use. Livestock scales are tested with high-density cast iron weights. During a shift test, the load can be concentrated above individual load bearing points. However, the scale never experiences these concentrated loads when it is used to weigh livestock. Livestock cannot be concentrated over load bearing points.

HOPPER SCALES

Part 7601.5000 HOPPER SCALES.

Subpart 1. Capacity. This proposed rule is designed to clarify wording in NIST Handbook-44 that requires a scale hopper and scale indicator to be of equal capacity. Since this is physically impossible, considering the wide range of material densities weighed in hopper scales, the Department has proposed a clarification that allows the hopper capacity to "match" the indicator capacity within a reasonable range. The proposed rule is reasonable because it clarifies the meaning of a vague requirement in NIST Handbook-44. The requirement in Handbook-44, and this clarification proposed by the Department, will apply to hundreds of commercial scales in Minnesota.

Subpart 2. Dust-control systems. This proposed subpart was drafted to help clarify a requirement in NIST Handbook-44. It addresses a problem, caused by dust extraction and collection systems, that frequently affects the accuracy of heavy capacity hopper scale systems in large grain terminals. NIST Handbook-44 states, in effect, that all components in a weighing system must be designed and installed to work together and provide accurate weighing under all conditions. The proposed rule clarifies the meaning of the NIST Handbook-44 requirement as it relates to grain hopper scales equipped with dust control systems. The proposed rule specifies that the weighing system must not be affected by air pressure differentials, and that dampers and flow control devices in the dust control system must be sealed to prevent adjustment. The proposed rule is reasonable because it provides clear language to address a problem that is common in Minnesota. It is also reasonable because it does not expand upon, or differ from, the uniform national requirements in NIST Handbook-44. Additionally, the proposed rule is reasonable because it is similar to the hopper scale requirements of the United States Department of Agriculture, Federal Grain Inspection Service.

MEASURING LIQUEFIED PETROLEUM GAS

Part 7601.6000 TEMPERATURE CORRECTION FOR MEASURING LIQUEFIED PETROLEUM GAS.

Formerly Part 7600.8100. The proposed rule is a renumbered and reformatted version of Part 7600.8100. Although reformatted, the proposed rule is identical, in its effect and meaning, to Part 7600.8100.

Subpart 1. Requirements. The proposed rule requires that, for deliveries of liquefied petroleum gas (LPG) to a consumer, the volume delivered must be temperature compensated. The proposed rule makes an exception for deliveries of less than 100 gallons into mobile fuel tanks. The proposed rule also requires the use of a standard volume correction table, contained in Part 7601.9900 of the proposed rules.

Subpart 2. Calculation. The proposed rule specifies that a standard calculation, using a standard conversion table, must be used when the seller manually calculates the compensated volume of LPG.

The proposed rule is reasonable because it specifies a simple, uniform, and equitable method of sale for LPG. Within the range of normal atmospheric temperature and pressure, LPG does not exist in a liquid state like gasoline, diesel fuel, or heating oil. Although it is stored, delivered and sold under pressure (and, therefore, in a liquid state) it cannot be sold by simple volumetric measurement. The volume of a given mass of this pressurized liquid varies greatly with changes in temperature. The proposed rule is reasonable because it specifies a method of compensating for these volume variations. Additionally, this method of sale is reasonable because it is a common industry practice that has been specified by Department rules, and used in Minnesota, for more than 40 years.

VOLUNTARY PLACING IN SERVICE PROGRAM.

Parts 7601.7000 to 7601.7100

This section of the proposed rule includes a major revision of the Department's voluntary placing-in-service registration program, formerly Parts 7600.8400 to 7600.9700. The proposed rule clarifies and expands upon many of the vague statements and authorities contained in Chapter 7600. The proposed rule is reasonable because it does not grant any new authority to the Department or to the voluntary registrants in the placing in service program. Additionally, the proposed rule is reasonable because it does not further restrict or regulate the activities of voluntary registrants. The reasonableness of each part and subpart of the proposed rule is explained below.

7601.7000 PLACING IN SERVICE PROGRAM; PURPOSE AND POLICY.

Subpart 1. Registered persons. Formerly Part 7600.9000 (first paragraph). This proposed subpart contains a statement of the purpose and policy of the placing-in-service program. The proposed rule is reasonable because it clearly states that the Division will operate a placing-in-service program that is designed to allow privately employed individuals to install and repair commercial weighing and measuring equipment. Additionally, the proposed rule is reasonable because the placing-in-service program simplifies compliance with weights and measures requirements. Registrants can authorize immediate commercial use of new and repaired equipment so that business owners do not have to wait for an inspection by the Division.

Subpart 2. Nonregistered persons. Formerly Part 7600.9000 (second paragraph). The proposed rule states that it does not prohibit a non-registered person from installing or repairing weighing or measuring equipment. It also states that Minnesota Statutes, Chapter 239, prohibit commercial use of equipment, -installed or repaired by a non-registered person, until the equipment is tested and approved by the Weights and Measures Division. The proposed rule is reasonable because it does not limit the rights and freedoms of owners and operators of weighing and measuring equipment. The proposed rule gives equipment owners and operators an option to repair their own equipment. However, equipment repaired by a non-registered person cannot be used until it is tested by the Division. This provision is also reasonable, because it prevents use of equipment that may have been improperly installed or repaired by an untrained person who does not have appropriate test equipment.

Part 7601.7010. VOLUNTARY REGISTRATION. (Formerly Part 7600.8600.)

Subpart 1. Placing in service registration. This proposed rule requires the Director to accept applications and issue registration certificates.

Subpart 2. Application for voluntary registration. This proposed subpart specifies the information that an applicant must provide on an application for voluntary placing in service registration. The requested information includes an applicant's name, business name, business address, business telephone number, evidence that the applicant has the required test equipment, and the category of equipment that the applicant will install or repair. Under the requirements of Minnesota's Revenue Recapture Act, an applicant must also provide a social security number or Minnesota tax identification number.

This proposed rule is reasonable because it sets up a simple system that allows individuals to apply for voluntary registration in the Division's placing-in-service program. Additionally, the proposed rule is reasonable because it limits the Division's authority to collect information. The Division is permitted to collect only such information that is essential to register a person in the voluntary placing-in-service program.

7601.7020 CERTIFICATE OF REGISTRATION.

Formerly Part 7600.8900. This proposed rule requires the Director to issue a certificate of registration to a person who:

- a) Has fulfilled the application requirements contained in these proposed rules;
- b) Has the required test equipment;
- c) Has attended a training seminar; and
- d) Has completed and passed a written examination.

The proposed rule is reasonable because it sets forth simple application and qualification requirements that will allow an applicant to demonstrate that he or she has the knowledge, qualifications and equipment necessary to perform effectively as a voluntary registrant in the placing-in-program.

7601.7030 REGISTRATION FEE.

Formerly Part 7600.8700. This proposed rule requires the Division to charge a fee for registration. The proposed rule is reasonable because it complies with the Department's statutory mandate (Minnesota Statutes, Section 239.101, 1994) to recover the full cost of all Weights and Measures related operations.

7601.7040 RECIPROCITY.

Formerly Part 7600.8800. This proposed rule requires the Director to register a person who is a voluntary registrant in a placing-in-service program in another state, and who:

- a) Has fulfilled the application requirements contained in these proposed rules;
- b) Has provided evidence of registration in another state;
- c) Has the required test equipment that is annually calibrated in Minnesota, or in another state;
- d) Has attended a training seminar in Minnesota; and
- e) Has completed and passed a written examination in Minnesota.

Under the proposed rule, an applicant is not required to submit test equipment for calibration in Minnesota, if the equipment is calibrated annually in another state. The applicant must meet all of the same requirements as Minnesota-based applicants who are not registered in another state. The proposed rule is reasonable because it provides a somewhat simplified means of recognizing the qualifications of a person who is a voluntary registrant in a placing-in-service program in another state. Additionally, the proposed rule is reasonable because it does not impose an additional cost burden for calibration services that have been provided in another state.

7601.7050 PRIVILEGES OF A VOLUNTARY REGISTRANT.

Formerly Part 7600.9100. The proposed rule is a revised version of part 7600.9100. The proposed rule is functionally equivalent to the former rule. The proposed rule is reasonable because the privileges it creates form the foundation of the placing-in-service registration program. The proposed rule will allow a placing-in-service registrant to remove an official rejection tag, to remove a Minnesota security seal, to repair and place-in-service equipment rejected by the Department, and to place newly installed equipment into commercial service. These privileges ease the burden of compliance for owners and operators of weighing and measuring equipment by allowing them to use new and repaired equipment immediately, without having to wait for an inspection by the Department.

7601.7060 RESPONSIBILITIES OF A VOLUNTARY REGISTRANT.

Subpart 1. Performance. Formerly Part 7600.9200. This proposed rule sets three simple performance requirements for registrants.

Subpart 2. Placing in service required. Formerly Part 7600.9300. This proposed rule clearly states the conditions under which a placing-in-service report must be completed and submitted.

Subpart 3. Reporting. Formerly Part 7600.9300. This proposed rule gives instructions for completing, submitting, and retaining copies of placing-in-service reports.

Subpart 4. Security seals. This proposed rule requires a registrant to install a security seal when the registrant installs new equipment, or repairs equipment that has been rejected by the Department.

The proposed rule is a revised and clarified version of the former rules. The proposed rule is reasonable because the reporting system allows the Department to determine whether equipment rejected by the Department is repaired. It is also reasonable because the reporting system ensures that the Department will be notified when new equipment is installed. The proposed rule preserves the original intent and meaning of the reporting system that had been established in chapter 7600.

The proposed rule contains one new requirement. Subpart 4 requires a registrant to install a security seal that displays the registration number. This new requirement is reasonable because it provides information that helps the Department determine which registered person has installed or repaired equipment. This information is essential in tracking the quality of work performed by individual registrants, and in ensuring that the corrective actions, specified in the problem resolution system (see part 7601.7090), are directed at the appropriate individual registrants.

7601.7070 PLACED IN SERVICE REPORT.

Formerly Part 7600.9300. The proposed rule requires the Director to provide reporting forms to registrants. The proposed rule is reasonable because it ensures that the Division will receive placing-in-service information in a consistent and recognizable format. The cost of the reporting forms is recovered through the annual registration fee.

7602.7080 STANDARDS AND TESTING EQUIPMENT.

Subpart 1. Required equipment list. Formerly Part 7600.9500. The proposed rule requires the Director to publish lists of test equipment that registrants must use to test and place-in-service commercial weighing and measuring equipment.

Subpart 2. Annual calibration required. Formerly Part 7600.9400. The proposed rule requires registrants to submit test equipment for annual calibration. This subpart does not apply to registrants who have their equipment calibrated annually in another state.

The proposed rule is reasonable because a registrant must have appropriate, accurate equipment to test the commercial weighing and measuring equipment that the registrant installs and repairs. It is impossible to ensure the accuracy of a scale without an appropriate amount of calibrated test weights. It is also impossible to ensure the accuracy of a gasoline pump without testing the pump with an accurate five-gallon test measure.

7601.7090 PROBLEM RESOLUTION SYSTEM; CERTIFICATE OF REGISTRATION.

Formerly Part 7600.9600. This rule includes an extensive revision to clarify very broad authorities that were briefly and vaguely stated in a single sentence in the former rule. The former rule granted to the Director general authority to inspect work performed by registrants, and to suspend and revoke certificates of registration. It did not provide any information on the reasons, terms, or conditions for suspending or revoking a certificate. The proposed rule clearly lays out a list of violations, and a series of disciplinary actions that the Director may impose. In general, the proposed rule is reasonable because it complies with Minnesota Statutes, Section 239.011, Subdivision 1 (1994), which require the Division to "ensure that weights and measures in commercial service within the state are suitable for their intended use; properly installed, accurate, and properly maintained by their owners or users." Additionally, the proposed rule is reasonable because it has the same intent and meaning as the former rule, because it gives each registrant clear information about the terms and conditions that must be met to maintain certification, and because it sets forth the methods that the Director must use to ensure that competent persons are allowed to

register and maintain registration in the program. The specific requirements and reasonableness of each subpart are discussed below.

Subpart 1. Director may inspect. This subpart authorizes the director to inspect repair and installation work performed by registrants. This subpart is reasonable because the Director must be able to inspect the work performed by a registrant in order to determine whether the registrant installs and repairs commercial weighing and measuring equipment in compliance with Department rules.

Subpart 2. Problem resolution system, list of violations. This subpart lists all actions or omissions that are considered violations of the placing-in-service authority granted by the Director. This subpart is reasonable because it clearly states the performance criteria that a registrant must meet. Additionally, it is reasonable that the Department is proposing performance criteria because the registration system would be meaningless if the registrants were not required to meet a minimum level of competence. As an example of the reasonableness of the performance criteria, it would be unfair for an experienced and highly competent scale repair technician to have to compete for repair contracts against an incompetent registrant who regularly left scales out of compliance following repairs. Inaccurate and inappropriate repairs are a significant cost burden to owners and operators of weighing and measuring equipment. The problem resolution system will help to ensure that all registrants perform effectively, thereby ensuring a high level of compliance and accuracy for weighing and measuring equipment.

Subpart 3. Additional training. This subpart states that the Director shall require a registrant to accept additional training when the Director finds that the registrant has violated Department rules. This subpart is reasonable because it provides a relatively lenient first step in a progressive system to resolve a problem. In essence, it requires the Director to first assume that a registrant may be making mistakes as a result of incomplete or improper training, and that additional training will eliminate the mistakes.

Subpart 4. Warning letter. This subpart requires the Director to write a warning letter to a registrant who has committed specified violations. This subpart is a reasonable second step in the progressive problem resolution system because it is a relatively lenient early response to a problem, and because it requires the Director to create the first written record of the fact that a registrant has violated Department rules.

Subpart 5. 30-day suspension. This subpart requires the director to suspend a registration certificate for up to 30 days when a registrant commits specified violations three or more times in a 90 day period. This subpart is a reasonable third step in the progressive problem resolution system because it requires the Director to take a clear and firm action against a registrant who continues to violate Department rules after receiving additional training and at least one written warning.

Subpart 6. 90-day suspension. This subpart requires the director to suspend a registration certificate for up to 90 days when a registrant commits specified violations six or more times in a 90 day period, or when a registrant continues to place equipment into commercial service following a 30-day suspension of the certificate. This subpart is a reasonable fourth step in the progressive problem resolution system because it requires the Director to impose a severe penalty when a registrant demonstrates lack of competence by repeatedly violating Department rules, or when a registrant intentionally ignores the initial warnings and suspension.

Subpart 7. Revocation. This subpart requires the Director to revoke a registration certificate when a registrant continues to place equipment into commercial service following a 90-day suspension of the certificate, or when a registrant fails to pay a fee for registration or equipment calibration. The subpart is reasonable because it requires the Director to take a fifth, and final, step in the progressive problem resolution system when a registrant has failed to heed all previous warnings and suspensions.

Subpart 8. Reinstatement. This subpart requires the Director to reinstate a registration certificate not less than 120 days after it has been revoked, and if the applicant for reinstatement meets all of the conditions for registration. The subpart is reasonable because it allows the Director to register a former registrant who has demonstrated competence. A former registrant could, for example, demonstrate competence while working under the supervision of a registered person.

7601.7100 LISTS OF REGISTERED PERSONS.

Formerly Part 7600.9700. This proposed rule requires the Director to publish lists of placing-in-service registrants. The proposed rule is reasonable because the information is part of the public record, and must be made available to any interested person.

7601.9900 VOLUME CORRECTION FACTOR TABLE.

Formerly Part 7600.8100. The proposed rule contains a table of correction factors that must be used to compensate for the effects of temperature change in the volumetric measurement of liquefied petroleum gas (LPG). This table is referenced in the temperature compensation requirement in Part 7601.6000 of these proposed rules. The proposed rule is reasonable because LPG cannot be accurately measured without temperature compensation. (A further explanation of the reasonableness of this proposed rule is contained in this document in the explanation relating to Part 7601.6000.)

[REPEALER.]

The Department proposes to repeal Chapter 7600, and replace it with Chapter 7601. Following is a list of each part the Department proposes to repeal. Each part is identified by number and title and accompanied by a very brief statement to explain whether the requirements contained in the rule are repealed, or renumbered and revised as part of Chapter 7601. It is reasonable to repeal the following rules because the Department finds that Chapter 7600 was poorly organized and poorly written, and because certain parts of Chapter 7600 are obsolete.

Specifications for Heavy Capacity Pivot Scales

- 7600.0100 Definitions.** Revised and renumbered as Part 7601.0100. This part defines terms used in Chapter 7600.
- 7600.0200 Application.** Obsolete, proposed for repeal. This part restricts the application of Part 7600.0300 through Part 7600.6700 to heavy capacity scales, defined in a subsequent part of the rule as railroad track scales, hopper scales, oil tank scales, and state weight scales.
- 7600.0300 Waiver of rules.** Revised and renumbered as Part 7601.0200. This part authorizes the Director to waive parts of Department Rules, Chapter 7600, to allow weighing and measuring equipment to be installed when special circumstances make it impossible or prohibitively expensive to comply with all parts of Department rules.
- 7600.0400 Plans to be furnished by manufacturer and purchaser.** Revised and renumbered as Part 7601.3000. This part requires a manufacturer of a heavy capacity scale to provide plans to the purchaser. Requires the purchaser to provide the plans to the Director prior to installation.
- 7600.0500 Permits.** Revised and renumbered as Part 7601.3010. This part requires a permit, issued by the Division, prior to installing a heavy capacity scale.
- 7600.0600 Scale approval.** Proposed for repeal. This part prohibited approval of a heavy capacity scale until all requirements in Chapter 7600 have been met. This requirement does not appear to serve any purpose.
- 7600.0700 Classification of scales.** Obsolete, proposed for repeal. The rule names four classifications of heavy capacity scales - railroad track scales, hopper scales, oil tank scales, and state weight scales. This requirement does not appear to serve any purpose.

Pertaining to Scales as Classified in a General Way

- 7600.0800** **Pertaining to scales classified in a general way.** Obsolete, proposed for repeal. This part set some basic, and very general quality requirements for the design and installation of heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.0900** **Character and finishing of scale parts.** Obsolete, proposed for repeal. This part set several very general requirements for the quality of the parts used to install a heavy capacity scale. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1000** **Lever and fulcrum bearing stands; design and dimensions.** Obsolete, proposed for repeal. This part specified the design of load bearing stands for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1100** **Main load bearing stands.** Obsolete, proposed for repeal. This part specified the method of assembling and aligning load bearing stands for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1200** **Scale levers.** Obsolete, proposed for repeal. This part set several general requirements for the design of mechanical levers for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1300** **Lever nose irons on track and hopper scales.** Obsolete, proposed for repeal. This part set several general requirements for the design of mechanical lever adjusting mechanisms for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1400** **Scale pivots.** Obsolete, proposed for repeal. This part set specifications for the design and installation of the pivots in heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.1500** **Anti-friction points and plates.** Obsolete, proposed for repeal. This part required installation of specially designed anti-friction points and plates to limit the lateral movement of pivots in heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.

7600.1600 **Bearing steels.** Obsolete, proposed for repeal. This part specified the hardness and finish of load bearings for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.

7600.1700 **Weighbeam.** Obsolete, proposed for repeal. This part set detailed specifications for the design and installation of weighbeams for heavy capacity scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.

Railroad Track Scales

7600.1800 **Length of scale and number of sections.** Obsolete, proposed for repeal. This part defined the length of railroad track scales, and limited scale design to a maximum of four sections.

7600.1900 **Weighbeam.** Obsolete, proposed for repeal. This part set detailed design, capacity, and division requirements for weighbeams used with railroad track scales. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.

7600.2000 **Scale location.** Obsolete, proposed for repeal. This part specified clearance and elevation requirements for railroad track scales. It required that all railroad track scales must be installed inside an enclosure. The requirement is unnecessarily restrictive.

7600.2100 **Scale foundation.** Revised, simplified, and renumbered as Part 7601.3020. This part specified the design of railroad track scale foundations.

7600.2200 **Assembling and setting of scale.** Obsolete, proposed for repeal. This part specified methods for installing and aligning mechanical parts of a railroad track scale. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.

7600.2300 **Scale weighbridge.** Obsolete, proposed for repeal. This part specified the design of the weighbridge for railroad track scales. Although the design of scale weighbridges has not changed significantly, it is not necessary to specify the design in Department rules. The requirement is unnecessarily restrictive.

7600.2400 **Weighbeam house.** Obsolete, proposed for repeal. This part required a structure to enclose the weighbeam of a railroad track scale. It specified

ventilation, lighting, and window placement in the structure. The requirement is unnecessarily restrictive. It limited design flexibility.

Grain Hopper Scales and Oil Tank Scales

- 7600.2500** **Scale capacity, location, and clearance.** Obsolete, proposed for repeal. This part required a minimum capacity of 2,500 bushels for all grain hopper scales. It is obsolete because modern, automated weighing systems provide improved accuracy, and greater operating speed at much lower capacities.
- 7600.2600** **Foundation.** Obsolete, proposed for repeal. This part specified a construction method for hopper scale foundations. The requirement is unnecessarily restrictive. It limited design flexibility.
- 7600.2700** **Assembling and setting scale lever system.** Obsolete, proposed for repeal. This part specified methods for installing and aligning mechanical parts of a hopper scale. The requirement applied strictly to mechanical heavy capacity scales that are not currently manufactured.
- 7600.2800** **Weighbeam and accessories.** Obsolete, proposed for repeal. This part set detailed design, capacity, and division requirements for weighbeams used with hopper scales. It is obsolete because weighbeam indicators are not currently manufactured for these types of heavy capacity scales.
- 7600.2900** **Method of scale test.** Obsolete, proposed for repeal. This part specified that hopper scales must be tested by suspending standard test weights from the corners of the weighbridge. There is no need to specify a test method.

Railroad Track Scales

- 7600.3000** **Location, dimensions, and approach.** Revised and renumbered as Part 7601.3020. This part set specifications for scale length, location, foundation design, and approach piers. The specifications refer to antiquated construction methods that have not been used for 40 years.
- 7600.3100** **Scale rails.** Subparts 1, 2, and 3 are obsolete and proposed for repeal. Subpart 4 is revised and renumbered as Part 7601.3030. Subparts 1, 2, and 3 contain unnecessarily restrictive design requirements that may conflict with standard specifications of the American Railroad Engineers Association. Subpart 4 requires straight, level approach rails, and specifies approach rail clearances. Part of subpart 4 has been revised because straight, level approach rails are an important factor in accurate weighing.

- 7600.3200 **Scale deck construction.** Obsolete, proposed for repeal. This part specified antiquated construction and design techniques that have not been used for at least 20 years, and may conflict with standard specifications of the American Railroad Engineers Association.
- 7600.3300 **Dead rail track.** Obsolete, proposed for repeal. This part specified antiquated construction techniques that conflict with standard construction specifications of the American Railroad Engineers Association.
- 7600.3400 **Motion weighing.** Obsolete, proposed for repeal. This part is not needed because modern requirements, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.

Grain Hopper Scales

- 7600.3500 **Scale location.** Obsolete, proposed for repeal. This part specifies clearances around hopper scale parts. The requirement is not needed because modern, less detailed requirements, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.
- 7600.3600 **Receiving pit.** Obsolete, proposed for repeal. This part may have been originally intended to specify the design of a receiving pit into which grain could be unloaded from rail cars. The requirement appears to have been poorly drafted or modified so that it does not state where, or to what type of scale, a receiving pit must be located or attached. Modern, less detailed requirements, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.
- 7600.3700 **Receiving leg and grain movement.** Obsolete, proposed for repeal. This part may have been originally intended to specify the design of a grain handling system from a receiving pit to a hopper scale. The requirement appears to have been poorly drafted or modified so that it does not state where, or to what type of scale, a receiving leg must be located or attached. Modern, less detailed requirements, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.
- 7600.3800 **Scale garner.** Obsolete, proposed for repeal. This part required installation of a garner, or holding hopper, above a hopper scale. The requirement is overly restrictive and limits design flexibility. In many cases, modern grain handling equipment obviates the need for such a system.

- 7600.3900** **Scale hopper.** Obsolete, proposed for repeal. This part contained detailed design specifications for scale hoppers. The requirement is overly restrictive and limits design flexibility.
- 7600.4000** **Air release vents.** Obsolete, proposed for repeal. This part contained detailed design specifications for scale hoppers. The requirement is overly restrictive and limits design flexibility. It also conflicts with grain dust control requirements of the Minnesota Pollution Control Agency. Modern, and more general, requirements are proposed for adoption under Part 7600.5000.
- 7600.4100** **Dust control and dust curtains.** Obsolete, proposed for repeal. This part contained detailed specifications for the design of dust control curtains attached between a garner and hopper. The rule specifies that the curtains must be made from canvas. The requirements are antiquated and overly restrictive.
- 7600.4200** **Oil tank scales.** Obsolete, proposed for repeal. This part contained detailed design specifications for tank scales used to weigh oils derived from seeds and grain. The requirement is overly restrictive and limits design flexibility.
- 7600.4300** **Full capacity hopper beam scale.** Obsolete, proposed for repeal. This part set detailed design, capacity, and division requirements for weighbeams used with hopper scales. Weighbeam indicators are not currently manufactured for heavy capacity hopper scales.
- 7600.4400** **Scale tolerances.** Obsolete, proposed for repeal. This part set antiquated, non-uniform tolerances (accuracy requirements) for railroad track scales and hopper scales. Uniform modern tolerances, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.
- 7600.4500** **Sensibility reciprocal of scales.** Obsolete, proposed for repeal. The rule appears to set non-uniform, antiquated sensitivity requirements that could be applied only to mechanical scales. The origin and meaning of the term "sensibility reciprocal" are unknown. A uniform modern sensitivity requirement, contained in NIST Handbook-44, is proposed for adoption under Part 7601.1000.
- 7600.4600** **Counterpoise weights.** Obsolete, proposed for repeal. This part contains an antiquated requirement that sets non-uniform tolerances for counterpoise weights used on mechanical hopper scales. Uniform modern tolerances, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.

7600.4700 **Semi-automatic printing scales.** Obsolete, proposed for repeal. This part set minimum division requirements for a hopper scale equipped with a printer. The requirements conflict with the modern, uniform division value requirements, contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.

7600.4800 **Scales and tolerances defined.** Obsolete, proposed for repeal. This part defined and set tolerances for railroad track scales, hopper scales, and state weight scales. Uniform modern tolerances, contained in NIST Handbook-44, are proposed for adoption under Part 7601.1000.

Automatic Bulk Weighing Systems, Specifications and Tolerances

7600.4900 **Specifications and tolerances.** Obsolete, proposed for repeal. This part set several design and operational requirements for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota.

7600.5000 **Weight graduations.** Obsolete, proposed for repeal. This part set several indicator design requirements for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota.

7600.5100 **Balancing and leveling means.** Obsolete, proposed for repeal. This part set several design and operational requirements for mechanical automatic bulk weighing systems. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000, and clarified in Part 7601.2000.

7600.5200 **Facilitation of fraud.** Obsolete, proposed for repeal. This part prohibited a design that would facilitate fraudulent use of an automatic bulk weigher. It is not needed because similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.

7600.5300 **Protection.** Obsolete, proposed for repeal. This part required protection from the weather for an automatic bulk weigher. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000, and clarified in Part 7601.2000.

7600.5400 **Shift test of scales.** Obsolete, proposed for repeal. This part set an accuracy requirement to be applied during a 1/4 capacity shift test on an automatic bulk weigher. Similar requirements that apply to all types of

scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.

- 7600.5500** **Indicating elements on automatic-indicating scales.** Obsolete, proposed for repeal. This part set several indicator design requirements for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota.
- 7600.5600** **Damping device.** Obsolete, proposed for repeal. This part set an indicator design requirement for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.5700** **Unit weights.** Obsolete, proposed for repeal. This part set an indicator design requirement for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.5800** **Security of adjustment of automatic-indicating element.** Obsolete, proposed for repeal. This part set an indicator design requirement for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.5900** **Increasing-and-decreasing load test on automatic-indicating scales.** Obsolete, proposed for repeal. This part set test requirements for mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.6000** **Suitability and maintenance of equipment.** Obsolete, proposed for repeal. This part required that an automatic bulk weigher must be suitable for its intended use. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.

- 7600.6100** **Use of adjustments.** Obsolete, proposed for repeal. This part prohibited the adjustment of one component to compensate for wear in another component. The part applies only to mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota. Clearer, more modern requirements are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.6200** **Method of operation.** Obsolete, proposed for repeal. This part contained a statement that equipment must be operated only in the way it is intended to be operated. The Department believes that the requirement, like any tautological or circular argument, is not meaningful or useful.
- 7600.6300** **Assistance in testing operations.** Obsolete, proposed for repeal. This part required the owner of an automatic bulk weigher to assist the Department in testing the scale, if special accessories or procedures are needed. Similar requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.6400** **Adjustment of equipment.** Obsolete, proposed for repeal. This part required a scale service person to adjust an automatic bulk weigher as close to zero error as possible. Similar, and clearer, requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.6500** **Garner and scale valves.** Obsolete, proposed for repeal. This part required interlocking upper and lower gate valves to maintain the accuracy of an automated bulk weighing system. Similar, and clearer, requirements that apply to all types of scales are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.6600** **Protection of scales.** Obsolete, proposed for repeal. This part set detailed facility design and construction requirements to reduce the possibility of intentional or unintentional interference with an automatic bulk weigher. The part applied only to mechanical automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota.
- 7600.6700** **Minimum capacity.** Obsolete, proposed for repeal. This part set very large capacity requirements for mechanical automatic bulk weighing systems. Modern electronic bulk weighers operate accurately and quickly at much lower capacities. The part applied only to mechanical

automatic bulk weighing systems. Mechanical automatic bulk weighers are obsolete. They are not used commercially in Minnesota.

Standards for Commercial Weighing and Measuring Devices

- 7600.6800** **Promulgation of existing code by reference.** Updated, retitled, and renumbered as Part 7601.1000. This part incorporates NIST Handbook-44 by reference.
- 7600.6900** **Fuel pump sales; measurement and price computation.** Obsolete, proposed for repeal. This part allowed temporary gasoline price computation and sale on the basis of "price-per-half-gallon." It contained a sunset clause that inactivated the requirement on January 1, 1984.
- 7600.7000** **Advertisements.** Obsolete, proposed for repeal. This part required roadside gasoline price advertising signs to display price-per-gallon or price-per-liter. Similar requirements are contained in Minnesota Statutes, Section 239.751, Subdivision 3.
- 7600.7100** **Liter-gallon price comparison.** Obsolete, proposed for repeal. This part required a sign indicating the equivalent price-per-gallon if gasoline is priced and sold by liters. The part may conflict with Minnesota Statutes, Section 239.012, which specifically recognizes, and allows commercial use of, the metric system in Minnesota
- 7600.7200** **Animal and livestock scale.** Revised and renumbered as Part 7601.4040. This part sets tolerances for animal and livestock scales.
- 7600.7210** **Scales, sensitivity requirement.** Revised and renumbered as Part 7601.2010. This part sets special sensitivity requirements to allow continued use of older livestock scales in Minnesota.

Scales and Weighing Devices; Specifications

- 7600.7300** **Pivots.** Obsolete, proposed for repeal. This part included detailed design, material, and hardness specifications for mechanical scales. Similar requirements, that are less detailed and restrictive, are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.7400** **Bearings.** Obsolete, proposed for repeal. This part set detailed design, material, and hardness specifications for mechanical scales. Similar requirements, that are less detailed and restrictive, are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.

- 7600.7500** **Vehicle and livestock scale approaches.** Revised and renumbered as Part 7601.4020. This part includes requirements for the construction, length, and slope of approaches to vehicle and livestock scales.
- 7600.7600** **Proper position of weighing and measuring devices used in trade for vending.** Obsolete, proposed for repeal. Similar requirements are contained in NIST Handbook-44, proposed for adoption under Part 7601.1000.
- 7600.7700** **Submission of plans.** Revised and renumbered as Part 7601.4000. This part requires a scale manufacturer to provide complete installation plans and drawings to a scale purchaser. It requires the purchaser of an above ground vehicle or livestock scale to submit plans to the Director, and receive the Director's approval, prior to installing the scale.
- 7600.7750** **Protection from environment.** Revised and renumbered as Part 7601.2000. This part clarifies requirements in NIST Handbook-44 pertaining to protection from the weather for scales installed outdoors.
- 7600.7800** **Livestock scales.** Revised and renumbered as Part 7601.4030. This part requires a livestock scale to be equipped with a printer.
- 7600.7900** **Scale pits.** Revised, retitled, and renumbered as Part 7601.4010. This part includes general foundation design requirements for vehicle and livestock scales.
- 7600.8100** **Temperature correction of liquid meters for liquefied petroleum gas.** Revised and renumbered as Part 7601.6000 and Part 7601.9900. This part requires temperature compensated measurement for retail sales of LPG. It exempts sales of less than 100 gallons to mobile fuel tanks. It also includes a temperature compensation chart.
- 7600.8200** **Sales of commodities.** Obsolete, proposed for repeal. This part defines "net weight" and sets detailed requirements for selling and labeling packaged meat.
- 7600.8300** **Random-sized packages to contain unit price.** Obsolete, proposed for repeal. This part conflicts with statutory and rule requirements enforced by the Minnesota Department of Agriculture, under authority granted by the United States Department of Agriculture.

Voluntary Registration of Service Persons

- 7600.8400** **Definitions.** Revised and renumbered as Part 7601.0100. This part defines terms used in Part 7600.8500 to Part 7600.9700.

- 7600.8500** **Voluntary registration of service persons for commercial weighing and measuring devices.** Obsolete, proposed for repeal. This part stated that the Department has authority to register persons who repair weighing and measuring equipment.
- 7600.8600** **Voluntary registration.** Revised and renumbered as Part 7601.7010. This part allows persons who repair weighing and measuring equipment to voluntarily register with the Department. It sets some qualification standards for registration.
- 7600.8700** **Registration fee.** Obsolete, proposed for repeal. This part specified a registration fee for a placing-in-service permit. All fees are now contained in Chapter 7602.
- 7600.8800** **Reciprocity.** Revised and renumbered as Part 7601.7040. This part allows the Director to accept evidence of registration in other states.
- 7600.8900** **Certificate of registration.** Revised and renumbered as Part 7601.7020. This part authorizes the Director to issue a certificate of registration to a qualified person.
- 7600.9000** **Voluntary registration.** Revised and renumbered as Part 7601.7000. This part authorizes the Director to accept voluntary registration of qualified persons.
- 7600.9100** **Privileges of a voluntary registrant.** Revised and renumbered as Part 7601.7050. This part authorizes a registered person to remove rejection tags and place new and repaired equipment into commercial service.
- 7600.9200** **Responsibilities of a voluntary registrant.** Revised and renumbered as Part 7601.7060. This part requires a registered person to comply with NIST Handbook-44.
- 7600.9300** **Placed-in-service report.** Revised and renumbered as Part 7601.7060 and Part 7600.7070. This part requires a registered person to submit a placed-in-service report when weighing or measuring equipment is installed or repaired.
- 7600.9400** **Standards and testing equipment.** Revised and renumbered as Part 7601.7080. This part requires a registered person to maintain and use appropriate test equipment.
- 7600.9500** **Publication of lists of approved standards and testing equipment.** Revised and renumbered as Part 7601.7080. This part requires the

Director to publish a list of the type and quantity of test equipment that a registered person is required to maintain and use.

- 7600.9600** **Revocation of certificate of registration.** Revised and renumbered as Part 7601.7090. This part allows the Director to inspect work performed by a registered person, and revoke the certificate of registration.
- 7600.9700** **Publication of lists of registered service persons.** Revised and renumbered as Part 7601.7100. This part authorizes the Director to publish, and supply upon request, a list of registered persons.
- 7600.9800** **Variations.** Revised and renumbered as Part 7601.0200. This part authorizes the Director to grant variations to Parts 7600.6800 to 7600.9700, sets forth criteria for requesting and granting a variance, prohibits variations to tolerance values or minimum division values, and requires that all variations be issued in writing.
- 7600.9900** **Weather guards.** Obsolete, proposed for repeal. This part consists of a drawing that details the design of weather guards for railroad track scales. The rule is unnecessary because similar, but much less restrictive, requirements are proposed for adoption under Part 7601.2000.

5) List of Witnesses and Exhibits

In the event a hearing is required, the testimony of the following witnesses, together with the following exhibits, will be introduced at the hearing to support the need for, and reasonableness of, the proposed rules:

a) Witnesses

- 1) Mr. Michael F. Blacik, Director of the Weights and Measures Division of the Department of Public Service, will testify in general about the need for and reasonableness of all of the proposed rules.
- 2) Mr. Mark V. Buccelli, Regional Supervisor for the Weights and Measures Division of the Department of Public Service, will assist the Director by testifying about specific technical requirements, concerning heavy capacity scales and placing-in-service registration, that are contained in the proposed rules, and in NIST Handbook-44.
- 3) Ms. Sherrill A. Mullenmaster, Regional Supervisor for the Weights and Measures Division of the Department of Public Service, will assist the Director by testifying about NIST Handbook-133, and about specific technical requirements, concerning light capacity scales and volumetric measuring equipment, that are contained in the proposed rules, and in NIST Handbook-44.
- 4) Mr. Richard E. Johnson, Regional Supervisor for the Weights and Measures Division of the Department of Public Service, will assist the Director by testifying about specific technical requirements, concerning retail gasoline pumps and other petroleum measuring equipment, that are contained in the proposed rules, and in NIST Handbook-44.
- 5) Mr. David Koets, Regional Supervisor for the Weights and Measures Division of the Department of Public Service, will assist the Director by testifying about NIST Handbook-133, and about specific technical requirements, concerning light capacity scales, volumetric measuring equipment, and placing-in-service registration, that are contained in the proposed rules, and in NIST Handbook-44.

b) Exhibits

- 1) The proposed rule, with a certificate of approval as to form by the Revisor of Statutes attached.
- 2) The statement of need and reasonableness.

- 3) The affidavit of mailing of the statement of need and reasonableness to the Legislative Commission to Review Administrative Rules.
- 4) A copy of the letter to the Legislative Commission to Review Administrative Rules, other appropriate committees of the Legislature, and the Governor, explaining why the proposed rules were not adopted within a 180 day period in the course of a previous rulemaking proceeding, in accordance with Minnesota Statutes, Sections 14.12 and 14.26 (1994).
- 5) The dual notice of intent to adopt a rule without a public hearing unless requested by 25 or more persons, as mailed.
- 6) The affidavit of mailing the dual notice of intent of adopt a rule without a public hearing, unless requested by 25 or more persons.
- 7) A copy of the dual notice of intent to adopt a rule without a public hearing unless requested by 25 or more persons, as published in the State Register.
- 8) A copy of NIST Handbook-44 and NIST Handbook-133.

6) **Small Business Considerations**

As required by Minnesota Statutes, Section 14.115 (1994), the Department has considered the impact of the proposed rules on small businesses. The statute sets forth five methods for reducing the impact of the proposed rule on small businesses. Following, are explanations of the Department's consideration of each of the five methods.

- a) **Establishment of less stringent reporting or compliance requirements for small businesses.** The purpose of a weights and measures regulatory system is to ensure accurate and uniform measurement at all levels of commerce. Minnesota Statutes, Section 239.011 (1994), require the Department to "ensure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate, and properly maintained by their owners or users." Within the framework of this statutory mandate, it is not possible to establish less stringent requirements for a specific class of businesses.
- b) **Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.** The proposed rules contain only one deadline for reporting. It is less stringent than the deadline it is designed to replace. Part 7601.7060, Subpart 3 requires voluntary registrants in the

Department's placing-in-service program to report all installation and repair of weighing and measuring equipment to the Division within 5 days after the work is completed. This 5-day deadline is considerably less stringent than the 24-hour reporting requirement, in Part 7600.9300, that it is designed to replace. Approximately 410 registered individuals, most of whom are self-employed or employed by small businesses, will be affected by this less stringent deadline.

- c) **Consolidation or simplification of compliance or reporting requirements for small businesses.** It was the intent of the Department of Public Service, in undertaking this proposed rulemaking, to simplify weights and measures requirements. The Department proposes to repeal many obsolete, vague, and non-uniform rules that specify design and performance requirements for railroad track scales, and grain hopper scales. In some cases, the Department proposes to replace the repealed rules with uniform, nationally recognized codes contained in NIST Handbook-44. In other cases, the Department proposes to simply repeal obsolete requirements. Small businesses that operate railroad track scales or grain hopper scales will benefit from a reduction in the overall compliance burden.
- d) **Establishment of performance standards for small businesses to replace design or operational standards required in the rule.** The Department proposes to repeal almost all design requirements for railroad track scales and heavy capacity grain hopper scales. The Department proposes to replace the design requirements with uniform, nationally recognized performance requirements contained in NIST Handbook-44.
- e) **Exemption of small businesses from any or all requirements of the rule.** The purpose of a weights and measures regulatory system is to ensure accurate and uniform measurement at all levels of commerce. Minnesota Statutes, Section 239.011 (1994), require the Department to "ensure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate, and properly maintained by their owners or users." Within the framework of this statutory mandate, it is not possible for the Department to exempt a specific class of businesses from the requirements of the proposed rules.

7) **Expenditure of Public Money by Local Public Bodies.**

As required by Minnesota Statutes, Section 14.11, Subdivision 1 (1994), the Department has considered whether the proposed rules will result in the expenditure of public money by local public bodies. The Commissioner of the Department of Public Service has determined that the proposed rules will not require the expenditure of public money by local public bodies.

8) Impact on agricultural lands

As required by Minnesota Statutes, Section 14.11, Subdivision 2 (1994), the Department has considered whether adoption of the proposed rules will have a direct and substantial adverse impact on agricultural lands in the state. The Commissioner of the Department of Public Service has determined that the proposed rules will not have a direct or substantial impact on agricultural lands in Minnesota.

9) Conclusion

Based on the foregoing, the proposed Minnesota Rules, parts 7601.0100 through 7601.9900 should be adopted because they are both needed and reasonable, and Minnesota Rules, Chapter 7600 is no longer needed or reasonable and should be repealed.

Dated: 2/1, 1995

Krista L. Sanda

Krista L. Sanda,
Commissioner