

Statement of Need & Reasonableness

Proposed MCAR § 3.016 Variances

The Department of Public Service, Division of Weights and Measures proposes to adopt this rule providing for the granting of variances from the specifications for commercial scales, commercial weighing devices, and commercial measuring devices pursuant to its general authority under Minn. Stat. § 239.06 (1980) to adopt rules deemed necessary to carry out its duties under Chapter 239. This rule is proposed in accordance with Minn. Stat. § 15.0412 subd. 1a (1980) authorizing agencies to grant variances from existing rules under procedures promulgated by rule as set forth in that statute and contained in this proposed rule.

The need and basis for each of the provisions of the proposed rule has been determined to be as follows:

Section A

This section provides for the granting of variances. Allowance of a variance is considered both necessary and reasonable for special cases where strict adherence to a particular rule can be shown to work an undue hardship. It is also intended to remove any unnecessary constraints which may limit or prevent engineering design and to allow for implementation of new technology. Adoption of this provision allowing variances is also intended to prevent unnecessary financial harm.

Section B

This provision is necessary so that a written record of variances sought and the reasons therefor can be maintained, so that the Director has specific and full information on the desired alternative in order that a careful investigation into the request can be made and full consideration to all interests may be given.

Section C

This section identifies the criteria for the granting of variances. It is necessary to insure that the requirements of due process are met and the request is granted or denied in a fair and equitable manner. It is intended to ensure the consideration of all relevant interests of the parties and the public in the granting of variances.

Section D

It is necessary to provide uniformity of specifications and tolerances on a national level in the standard designs and manufacture of commercial equipment. If designs are standardized to conform to a single set of technical requirements cost can be minimized to the ultimate advantage of the public. The tolerances and minimum interval directly relate to the accuracy criteria of a given device and should not be given consideration in the area of variances.

Section E

This provision is necessary to complete the written record on requests and the reason(s) for granting or denying a request. This record is required by Minn. Stat. § 15.0412, subd. 1a.