

STATEMENT OF NEED & REASONABLENESS

MCAR § 3.0120 Standards for commercial weighing and measuring devices.

The Minnesota Department of Public Service, Division of Weights and Measures, has determined that the proposed amendment to PSC 120 is necessary for the following reasons:

1. The existing rule regarding standards for weighing and measuring devices was promulgated in 1976. Since that time, there have been numerous changes in several sectors of the business community, the tax laws and overall economic conditions related to the fuel pump operations of service stations and others. These changes led to the determination of the need to review this rule.
2. Specifically, current economic conditions indicate that retail gasoline prices will remain at their present levels in excess of \$1.00 per gallon in the foreseeable future and that there is little or no likelihood they will ever return to levels below \$1.00 per gallon.
3. The dramatic rise in gasoline prices to the current levels has taken place within the past four years.
4. The majority of fuel pumps in operation at present were manufactured and placed in service prior to this increase in per gallon price and are therefore not designed for or equipped to register and compute gas sales at per gallon levels in excess of \$1.00.
5. The cost to convert existing fuel pumps to register and compute gas sales at levels exceeding \$1.00 per gallon is substantial. The cost to purchase new fuel pumps with this capacity is even more substantial.
6. Promulgation of rules providing for a reasonable transition period for required installation of fuel pumps capable of registering and computing sales at levels exceeding \$1.00 per gallon would mitigate the substantial cost burden such a requirement would impose on service station operators if conversion were mandated immediately.

7. Current gas prices result in half-price rates below \$1.00. Existing fuel pump measuring devices are currently capable of registering and computing prices per half-gallon.
8. Permitting fuel pump measurement and price computation per half-gallon for a transition period to January 1, 1984 would provide service station operators an opportunity to replace or convert existing fuel pumps at a time and in a manner most economically prudent to their ordinary business operations.
9. Consistent with the purpose and policy of the Metric Implementation and Standards Act, Minn. Stat. §§ 239.001-239.003 (1980), there is a gradual conversion to measurement and computation of fuel pump sales per liter in progress within the industry.
10. Existing provisions of the National Conference on Weights and Measures adopted by reference in PSC 120 with regard to these matters may conflict with or be unclear concerning the policy deemed most reasonable for and sought to be implemented by the State of Minnesota.

Therefore, the Department of Public Service proposes to adopt the following provisions relating to fuel pump measurement for the State of Minnesota:

4MCAR § 3.0120, Part B: - Provides for measurement per gallon, per liter, and per half-gallon with a phase out of half-gallon pricing by 1984. This will give operators an opportunity to convert in a manner convenient to them yet places a reasonable time limit on this process.

Part C: To ensure that consumers are able to understand and compare gas prices charges by service station operators, all roadside advertisements must indicate price per gallon or per liter. This is a reasonable provision designed to minimize consumer confusion created by the transition and imposes no undue burden on operators.

Part D: To facilitate the conversion to metric measurement and pricing and assist consumers in their understanding and comparison of per liter prices with per gallon prices, a posting of these equivalents is required at all places of sale. This requirement is the minimum reasonably necessary to ensure consumer awareness and understanding of per liter measurement and pricing. The burden imposed on operators is minimal and may benefit them as well to the extent that the notices facilitate comparison shopping by consumers.

Adoption of these amendments to PSC Rule 120 is pursuant to Minn. Stat. § 239.06 which grants the Department authority to prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of Chapter 239 relating to weights and measures. This is the same authority under which the present PSC Rule 120 was promulgated in 1977. At that time, however, the Public Service Commission initiated the proceedings for the Department pursuant to its statutory directive in Minn. Stat. § 216A.05 (1979) which provided at that time: "The Commission shall exercise each and every legislative function imposed by law on the Department of Public Service."

Pursuant to 1980 Minn. Laws Chapter 614, the Department of Public Service was restructured to consist of two entities the Department of Public Service and the Public Utilities Commission, rather than two divisions. 1980 Minn. Laws Chapter 614, section 101 continues the authority of the Department as vested and imposed immediately prior to the effective date of the act and subject to its provisions. Section 109 removes the authority of the Commission to act for the Department in legislative matters, thereby returning

that authority exclusively to the Department of Public Service. It is pursuant to this restructuring that the Department now seeks to exercise its authority to amend PSC 120.