

**TESTIMONY OF KEVIN HANSON
BEFORE THE PUBLIC SERVICE COMMISSION
Case No. WM-07-203
Weights and Measures Rule Making**

NOVEMBER 26, 2007

Good afternoon! My name is Kevin Hanson, I am employed by the Public Service Commission as Assistant Director and State Metrologist of its Testing and Safety Division.

The Testing and Safety Division of the North Dakota Public Service Commission has inspection and/or testing responsibility over the State's Gas Pipeline Safety Program, the Metrology Program, and the Weights and Measures Inspection and Testing Program.

During this rulemaking, we are requesting rule changes that affect the Weights and Measures and Metrology programs within the Division. A summary of the rule amendments are as follows:

Amendments to CHAPTER 69-10-01:

69-10-01-01. Definitions. As used in article 69-10: The proposed amendment to this rule adds the word "permit" to the definition of a variance to match the recent change to Title 64, NDCC.

69-10-01-02.3. Recertification. This new rule outlines who may recertify commercial devices; whose responsibility it is to insure that these devices are recertified; how often the devices must be recertified; and what type of enforcement actions that will take place if this rule is violated. This new rule was necessary to clarify recent changes to Title 64, NDCC.

69-10-01-03. Sealing. The proposed amendment to this rule deletes the requirement to include an address on the adhesive stickers used as part of the sealing

process. There is not enough space on the stickers to include the address.

69-10-01-03.2. Equipment repair notice - Applicable usage. The proposed amendments to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.; and, deletes the reference to LPG master meters which will be no longer allowed as standards.

69-10-01-04.1. Variance permit requests. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.

69-10-01-04.2. Split-weigh variance permit requests. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.

69-10-01-05. Rejected devices. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title, N.D.C.C.

69-10-01-05.1. Inactive weighing or measuring devices. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.

69-10-01-07. Sale of liquid fuels on other than gross volume basis prohibited. It is proposed that this existing rule be repealed in order to allow any operator to sell gasoline through a temperature compensated meter.

69-10-01-13. Enforcement. The proposed amendment to this rule adds the term “1999 edition” to clarify which NIST handbook no. 44 is used in ND.

69-10-01-16. Service contracts. The proposed amendments to this rule lowers the time limit registered service companies have to test a commercial device under contract to them, and also changes the requirement that the commission “must” schedule a device for testing which was not tested on time by a registered service company.

69-10-01-17. Manufacturer design deviations and limitations. This is a new rule which replaces two existing rules in the scale section of the code. This new rule is a composite of those two rules which was re-written to include both weighing AND measuring devices and, therefore, belongs in the general section of the code. The existing rules in the scale section will be repealed (see 69-10-02-08 and 69-10-02-11 in the next section).

Amendments to CHAPTER 69-10-02:

69-10-02-05. Portable pitless scales and portable hopper scales. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.

69-10-02-08. Deviations from manufacturer’s design. The proposed amendment repeals this rule (see new rule 69-10-01-17).

69-10-02-11. Limits established by factory-rated scale capacity. The proposed amendment repeals this rule (see new rule 69-10-01-17).

69-10-02-12. Observation windows or video cameras. The proposed amendment replaces gender specific terms with gender neutral terms.

69-10-02-16. Automatic bulk-loading systems - Receiving. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title , N.D.C.C.

69-10-02-19. Single-draft weighing - Exceptions. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title 64, N.D.C.C.

69-10-02-20. Split-weigh agreements. The proposed amendment to this rule adds the word “permit” to the word “variance” to match the recent change to Title, N.D.C.C.

69-10-02-24. Electronic scale data storage and retrieval. The proposed amendments to this rule make minor administrative additions and deletions to correct and clarify the rule.

69-10-02-25. Law enforcement scales. The proposed amendment to this rule adds the term “portable wheel-load scale” and other terms to clarify that both axel load permanent scales and portable wheel-load scales should be included in this rule.

69-10-02-26. Hoppers Scale Design Requirements. The first section of this newly proposed rule provides for design requirements to safely aid testing for existing hopper scales. Because of the large capacity of commercial hopper scales currently in service and with the capacities of new ones increasing every year the old test method involving the stacking or hanging of individual 50 lb weights is no longer acceptable. Our large scale inspectors need these modifications so that these devices may be safely tested using adequate test weight. The second section provides for adequate clearance to facilitate testing with large test weights on newly installed hopper scales. The third section sets forth exemptions of this rule.

Amendments to CHAPTER 69-10-03:

69-10-03-02. Adequate standards. The proposed amendments to this rule do the following: reorganize the existing rule and make administrative additions and deletions to correct and clarify the rule; replace the word “accredited” with the word “recognized”

so that ALL NIST laboratories, no matter what their echelon status are allowed; clarifies that an up to date copy of the metrology certificate of traceability for all standards be on file with the commission; changes the requirement for the recertification of bulk weigher standards to once every 5 years; disallows the use of LPG master meters as testing standards; and modifies the rule to allow that any standard may be recertified sooner if inspection shows a need.

69-10-03-06. Metrology service. The proposed amendments to this rule make changes which clarify how to make a metrology appointment and replaces the word “accredited” with the word “recognized” so that ALL NIST labs, no matter what their echelon status are allowed.

69-10-03-07. Delivery of standards for certification. The proposed amendments to this rule make changes which clarify the design leveling requirements on a prover, and adds the word “permit” to the term variance to match recent changes to Title 64, N.D.C.C.

69-10-03-08. Rejection of standards. The proposed amendment to this rule adds the word “permit” to the term variance to match recent changes to Title 64, N.D.C.C.

Amendments to CHAPTER 69-10-04:

69-10-04-02. Application for registration and permitting of a service person. The proposed amendments to this rule do the following: clarifies what type of test must be taken and where the test questions are taken from; replaces the term “metrology lab” with the word “facilities” so that a registered service person test may be given at any state facility; and deletes an unnecessary word (“and”).

69-10-04-03. Revocation of registration. The proposed amendment to this rule adds the word “permit” to the term variance to match recent changes to Title 64, N.D.C.C.

69-10-04-06. Quality control - Witnessing. The proposed amendment to this rule makes a minor change in wording to clarify the intent of the rule.

A Regulatory Analysis, Small Entity Analysis and Takings Assessment was conducted and a statement submitted on September 28, 2007. No regulatory taking of private real property is associated with any of the proposed rules.

With the exception of sections 69-10-02-26 and 69-10-01-04.1, none of the other proposed rules are expected to impact the regulated community in excess of fifty thousand dollars, no additional compliance standards or reporting requirements are proposed by those rule changes, and they will have no economic impact on small entities.

For details on the impacts associated with sections 69-10-02-26 and 69-10-01-04.1, please refer to that document.

The Commission has received no written comments concerning this proceeding.

This concludes my testimony. I would be happy to answer any questions on any of the rule amendments offered.