

1 Department of Public Service

2
3 Adopted Rule Governing the Director of the Department of Public
4 Service's Authority to Grant Variances with Regard to the
5 Installation of Commercial Scales, Weighing Devices and
6 Measuring Devices Not in Compliance with the Stated Rules of 4
7 MCAR (PSC Rules 120-145)

8

9 Rule as Adopted

10 4 MCAR S 3.0146 Variances.

11 A. Director to grant. No commercial scale, commercial
12 weighing device, or commercial measuring device which fails to
13 comply with any rule in Chapter Four shall be installed unless
14 the Director of the Division of Weights and Measures has first
15 granted a variance to those rules for the scale or device.

16 B. Request. To apply for a variance for any rule within
17 Chapter Four, the owner or operator of the commercial scale or
18 device must submit a request in writing to the Director of
19 Weights and Measures. The request shall:

20 1. Explain why a variance is sought;

21 2. Explain how the applicant meets the criteria for a
22 variance set forth in C.;

23 3. Specify the desired alternative standard to the rule
24 and demonstrate that under the alternative standard the scale or
25 device will conform to good commercial practices;

26 4. Provide a detailed plan showing the following:

27 a. The dimensions for all parts of the scale or device;

28 b. The materials from which those parts are made; and

29 c. The construction of the scale or device, including
30 its foundation and location.

31 C. Approval criteria. No request for a variance shall be
32 granted unless all the following criteria are met:

33 1. The rule for which a variance is sought works an undue
34 hardship on the applicant, or it is impossible for the applicant
35 to comply with the rule;

36 2. The variance sought will not work a harm to the public

1 interest;

2 3. The director is able to determine, after

3 investigation, that under normal operating conditions the scale
4 or device for which a variance is sought will:

5 a. Maintain the applicable accuracy standards;

6 b. Maintain the permanence of adjustments required;

7 and

8 c. Contain operating parts which function as intended.

9 D. Denial. No variance will be granted if it is a variance
10 of a tolerance or would apply to the value of the minimum
11 graduated interval of a device.

12 E. Response by the division to request. All requests will
13 be answered by the division in writing, setting forth the
14 reasons for granting or denying the variance.