Idaho State Department of Agriculture
IDAPA 02.02.14 Rules for Weights and Measures
May 14, 2019
Kevin Merritt, Facilitator

Present: Dennis Baird, Baird Oil; Dennis Campo, Campo & Poole Distributors; Jared Wolfley, CHS; Charley Jones, Stinker Stores; Suzanne Budge, Idaho Petroleum Marketers; Colby Cameron, Division of Financial Management; DeLon Lee, Idaho Farm Bureau; Brian Oakey, ISDA; Stacie Ybarra, ISDA; Katy DeVries, Office of Attorney General – ISDA; Janis Perry, ISDA; Kevin Merritt, ISDA.
Present by phone: Derek Brewer, Idaho Petroleum Marketers; Pam Eaton, Idaho Petroleum Marketers; Ron Berry, Berry Oil; Tony Stone, Jacksons; Jack Davis, Jacksons; Rich Wright, Jacksons.

AGENDA ITEMS

WELCOME

Kevin Merritt convened the meeting at 10:00 am. After introductions, Kevin thanked everyone for participating in this negotiated rulemaking.

Kevin drew the group's attention to the three sections of the current rule that the division suggests be redacted to meet the guidelines of Red Tape Reduction Act.

1. Section 050 Ticket Printer – this information is part of the NIST Handbook 44 which is incorporated by reference in this rule.
2. Section 300.06 Modified Procedure – a section from 1993 to handle half gallon pricing on mechanical pumps. Kevin indicated that since there are very few mechanical pumps remaining this section is no longer needed.
3. Section 016 – reference to the minimum annual license fee shall be defined in Table 1-A, rather than twelve dollars ($12) when licensing a single device since the table defines all of the fees.

No one present had questions regarding these redactions.

Kevin explained that a directive by the governor specified that the budget for Weights and Measures be better in line with program costs and that dedicated funds generated from licensing fees be increased so that the program has less reliance on general funds. Currently 65% of the budget is from general fund Moneys with the goal of having that decrease to 50%. The program plans to add an additional staff member which hasn't been done in forty years.

Kevin directed the group's attention to suggested changes to Table 1 for fee increases plus adding fees for Device Codes U Mass flow meter and V Electric vehicle charging systems.

Responding to a question from Dennis Baird, Kevin explained that the program began charging fees in 2003 and began passing costs on to the users.

Pam Eaton asked for a clarification on the fee changes since it is difficult to see the strike through on the number 4s. The suggested fee change for J. LPG dispenser if going from $40 to $50, not $450.

Kevin explained that these increased fees would not go into effect until February, 2021. The increase that would be generated ($374,000) would pay for the new position ($65,200 plus capital outlay), reduce the general fund moneys by $100,000 and leave $189,000 to build up the reserve. Charley Jones asked if the chart showing these calculations could be sent to the group.

Pam Eaton asked how many electric charging stations would be involved. Kevin stated that at this time he has no idea.

Kevin explained that the gas pump increase generated the most additional revenue, but that the large capacity scale fee (involving 1600 devices) was the largest increase.

Pam Eaton commented that it appears that most of the increases are 100% and asked if a two-year phase-in had been considered. Kevin responded that in the next two years the program needs to replace two heavy capacity trucks (costing about $500,000) which would wipe out the current reserve of $437,000. In response to a question by Charley Jones, Kevin indicated that the trucks were bought nineteen years ago and the old ones have little salvage value.

Charley Jones commented that he loves the transparency, but he feels that he needs confidence that there is a balance between the cost of testing and the increase cost. Kevin explained that the program's goal is to test annually and he hopes that industry is getting value in what is being tested. He added that tax dollars are paying more than half the cost of the inspection.

Pam Eaton asked who the client is for the two needed trucks. Kevin responded that industry has truck scales that would be tested using these trucks and many are agriculture scales.

Jared Wolfley expressed concern over the annual $189,000 reserve balance. Kevin stated that the program also needs to buy replacement testing equipment for gas station inspections costing $40,000 each. Brian Oakey added that once a comfortable reserve is built up adjustments could be made. Kevin commented that electric charging stations have the potential to generate a fair amount of money but we don't know yet how much that will be. Jared stated that he has never seen fees go down. In response to a question on the phone, Kevin stated that there are about 21,000 gas meters to be inspected.

Kevin displayed a spreadsheet showing Idaho's fee structure compared with other western states. Idaho with the suggested increases would still be significantly lower than all surrounding states.

Responding to a question from Jack Davis, Kevin indicated that his program handles 100 to 150 complaints per year with 90% of them related to fuel. Charley Jones asked about how many field inspectors are part of the program. Kevin answered that currently there are nine with the plan to add another. He explained that the program dropped inspection of packaging and is only handling complaints regarding that. Charley stated that he feels the industry is consolidating with fewer dispensers pumping more gas. Kevin indicated that the program has seen a 3% per year increase devices.

Dennis Campos asked about railroad scales. Kevin responded that there are about 10, all static ones. Regarding port scales, Kevin stated that the state is not charged for inspecting them.

In response to Dennis Baird's question regarding mass flow meters, Kevin explained that there are no moving parts, but the density of what is being measured is determined to measure the amount, for example liquid sugar or agricultural chemicals.

In response to Pam Eaton's questions regarding a break out of the program's expenses and revenues by fees and the general fund, Kevin offered to put that together and send it out.

Ron Berry commented that he feels that the fuel industry is paying for trucks needed to inspect industry scales, even though the fees are higher on the scale users.

In response to a question from Dennis Baird regarding general fund money, Brian Oakey explained that the agency pools all the general fund money. The governor asked for a different balance from the current 65% general fund to 35% dedicated fund. The last fee increase was in 2014 so there will be seven years in between.

Pam Eaton asked that it would help to know how much time to service each type of service.

In response to a question from Charley Jones, Kevin explained that to inspect the electric charging stations the program needs equipment costing $30,000 times four. Charley commented that the gas industry generates a whole lot of money, is the biggest customer, and involves the most efficient inspection process.

Brian Oakey commented that perhaps there is a more equitable way to raise the fees, a higher percentage for some. He cautioned the group that the agency needs consensus. Charley Jones requested that the percentage increase be related to the cost to provide the service, so that everyone pays their fair share.

Jared Wolfley asked what the appropriate reserve should be since he felt that $189,000 each year was too much. Suzanne Budge asked about the revenues from the general fund. Pam Eaton asked what is being funded from the general fund. The chart Kevin displayed confused the group since it only showed the dedicated fund side. Kevin offered to get together with fiscal to provide the requested information and send it out to the group this week. Jared commented that he felt the fee schedule was aggressive.

In response to a question from Dennis Baird regarding no increase in fees for natural gas, Kevin explained that those inspections have greatly diminished and may go away.

Kelly Nielson, ISDA's Fiscal administrator, explained the chart that seemed confusing. It shows the dedicated side only with the cash balance, revenues and expenses over time. Recently the expenses have exceeded the revenues. He offered to help Kevin provide a chart that includes the general fund revenues and expenses.

Jared Wolfley commented that he felt the suggested fee schedule was too aggressive. He thought the suggested fee increases could be reduced by half and the program would still be okay.

Pam Eaton questioned what it would take to flip the general to dedicated revenues to 45%/55% with the additional employee. Kevin indicated that the additional inspector would be in northern Idaho which is currently underserved. Pam suggested that she felt that members need to look at the information including the information that Kevin has agreed to send in order to digest all of this. She referenced a food licensing fee increase that she was involved in. Suzanne Budge indicated that a doubling of the current fees got everyone's attention and commented that the program needs industry support to get this past the legislature. Pam mentioned that she appreciates working with the people in this program, that it is well run and efficient. She will take that into consideration. Suzanne asked that the increase be given context. She stated that this proposal would be easier to defend if it was over time and if the rate of increase was related to the growth of devices rather than a percentage.

Kevin stated that currently they inspect 32,508 devices and project for 2025 to inspect 42,000. Asked if the program tests octane, he explained that an octane test cost $1,400 and must be done in fuel quality lab with knock engines. California is the only west coast state that operates knock engines.

Suzanne Budge asked how much work is done on fuel quality. Kevin indicated that he would like to do more fuel quality. Dennis Campo asked if the program can recoup inspection costs in fines. Pam Eaton asked if charging a fine had been explored. Kevin responded that he must go through the local prosecutor and that the county would keep the fees. Pam stated that if there are quality issues she feels that all expenses incurred by the program (either general or dedicated) be paid by the businesses. Kevin stated that there is no way to implement a fine and that most states charge late fees. Pam indicated that she is not opposed to late fees or penalties to keep the fees lower; that not everyone should pay for a few bad actors. However, this would involve a statute change.

Suzanne Budge asked if Kevin has scheduled another meeting. Kevin responded not at this time. Written comments will be received until May 31.

Dennis Campos stated that we don't want a raise in fees, but the program is doing a good job. He suggested that the program should not follow Oregon or Washington. Suzanne Budge suggested that the growth in the program should be covered by fees.

Kevin Merritt adjourned the meeting at 12:10 p.m.

Respectfully submitted by Janis Perry