

CWMA Laws and Regulations (L&R) Committee 2021 Interim Meeting Report

Mr. Mike Boehler, Committee Chair
Nebraska

INTRODUCTION

The Laws and Regulations (L&R) Committee (hereinafter referred to as “Committee”) submits its Report to the Central Weights and Measures Association (CWMA). The Report consists of the CWMA Agenda (NCWM Carryover and NEW items) and this Addendum. Page numbers in the tables below refer to pages in this Addendum. Suggested revisions to the handbook are shown in **bold face print** by ~~striking out~~ information to be deleted and **underlining** information to be added. Requirements that are proposed to be nonretroactive are printed in **bold-faced italics**.

Presented below is a list of agenda items considered by the CWMA and its recommendations to the NCWM Laws and Regulations Committee.

Subject Series List

Handbook 130 – General	GEN Series
Uniform Laws	
Uniform Weights and Measures Law	WAM Series
Uniform Weighmaster Law	WMR Series
Uniform Fuels and Automotive Lubricants Inspection Law	FLL Series
Uniform Regulations	
Uniform Packaging and Labeling Regulation	PAL Series
Uniform Regulation for the Method of Sale of Commodities	MOS Series
Uniform Unit Pricing Regulation	UPR Series
Uniform Regulation for the Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices	RSA Series
Uniform Open Dating Regulation	ODR Series
Uniform Regulation for National Type Evaluation	NTP Series
Uniform Fuels and Automotive Lubricants Regulation	FLR Series
Examination Procedure for Price Verification	PPV Series
NCWM Policy, Interpretations, and Guidelines	POL Series
Handbook 133	NET Series
Other Items	OTH Series

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Table B
Glossary of Acronyms and Terms

Acronym	Term	Acronym	Term
ASTM	ASTM International	NEWMA	Northeastern Weights and Measures Association
API	American Petroleum Institute	NIST	National Institute of Standards and Technology
CFR	Code of Federal Regulations	NCWM	National Conference on Weights and Measures
CWMA	Central Weights and Measures Association	OWM	Office of Weights and Measures
FALS	Fuels and Lubricants Subcommittee	PALS	Packaging and Labeling Subcommittee
FDA	Food and Drug Administration	S&T	Specifications and Tolerances
FTC	Federal Trade Commission	SAE	SAE International
HB	Handbook	SWMA	Southern Weights and Measures Association
ILMA	Independent Lubricant Manufacturers Association	UPLR	Uniform Packaging and Labeling Regulation
L&R	Laws and Regulations	USDA – FSIS	U.S. Department of Agriculture – Food Safety and Inspection Service
LPG	Liquefied Petroleum Gas	USNWG	U.S. National Work Group
MAV	Maximum Allowable Variation	WWMA	Western Weights and Measures Association

Details of All Items
(In order by Reference Key)

ITEM BLOCK 2 (B2) COMMERCIAL AND LAW ENFORCEMENT EQUIPMENT

B1: WAM-22.1 Section 1.11. Commercial Weighing and Measuring Equipment
 B1: NTP-22.1 Section 2.15. Commercial and Law Enforcement Equipment

Source:
 NIST, Office of Weights and Measures

Purpose:
 Add clarification regarding the implications of using weighing and measuring devices for transactions that may or may not be considered commercial transactions.

B2: WAM-22.1 D Section 1.11. Commercial Weighing and Measuring Equipment.

Item Under Consideration:
 Amend Handbook 130, Uniform Weights and Measures Law as follows:

1.11. Commercial Weighing and Measuring Equipment. – The term “commercial weighing and measuring equipment” means weights and measures and weighing and measuring devices commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, ~~hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure. (Added 1995) (a)~~

- (a) To other commercial weighing and measuring equipment:
 - i. when there is a fee assessed for the use of the equipment to determine a weight or measure
 - ii. used to determine the basis of an award using count, weight, or measure; or
 - iii. used in computing any basic charge or payment for services rendered on the basis of weight or measure.

(Amended 2008 and 20XX)

(Amended 2008 and 20XX)

- (a) To other commercial weighing and measuring equipment:
 - i. when there is a fee assessed for the use of the equipment to determine a weight or measure;
 - ii. used to determine the bases of an award using count, weight, or measure; or
 - iii. used in computing any basic charge or payment for services rendered on the basis of weight or measure.
- (b) To any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed that its operation affects the accuracy of the device.
- (c) To weighing and measuring equipment in official use for the enforcement of law or for the collection of statistical information by government agencies.

(These requirements should be used as a guide by the weights and measures official when, upon request, courtesy examinations of noncommercial equipment are made.)

B2: NTP-22.1 D Section 2.15. Commercial and Law Enforcement Equipment.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for National Type Evaluation as follows:

2.15. Commercial and Law Enforcement Equipment.

(a) Weighing and measuring equipment commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, ~~hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.~~

(b) To other commercial weighing and measuring equipment:

- i. when there is a fee assessed for the use of the equipment to determine a weight or measure
- ii. used to determine the basis of an award using count, weight, or measure; or
- iii. used in computing any basic charge or payment for services rendered on the basis of weight or measure.

(Amended 2008 and 20XX)

(c) Any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed that its operation affects the accuracy of the device.

(c) Weighing and measuring equipment in official use for the enforcement of law or for the collection of statistical information by government agencies. [NOTE 2, page 176] NOTE 2: The section is identical to G-A.1. Commercial and Law Enforcement Equipment, Section 1.10. General Code, NIST Handbook 44 for definition of “commercial” and “law enforcement equipment.”

NOTE 2: The section is identical to G-A.1. Commercial and Law Enforcement Equipment, Section 1.10. General Code, NIST Handbook 44 for definition of “commercial” and “law enforcement equipment.”

Previous Action:

N/A

Original Justification:

OWM has noted a number of inquiries submitted to our office for explanation on the many and various issues involved with the use of weighing or measuring devices as commercial devices when there is charge for doing so.

The submitter added that there seems to be a difference in opinions regarding this practice constitutes a commercial transaction.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - ITEM BLOCK 2
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Loren Minnich, Kansas commented he has submitted a suggested language change in Part A.2 (see below). Lisa Warfield, NIST Technical Advisor commented that there was an accidental duplication in part of the item as well as an issue in Section 2.3 that needs to be addressed. She recognizes there is additional work to be done to this item. Charlie Stutesman, Kansas commented that he is unclear if this item is necessary and believes the language in the Handbook is appropriate as it currently reads. Ms. Warfield clarified that this item is intended to merely clarify the language across handbooks. Ivan Hankins, Iowa, commented that he does not believe this item is necessary. Doug Musick, Kansas commented that there is ambiguity with the term “other”. He believes the language is unclear. Mr. Minnich further commented that he is undecided as to whether this item will provide further clarification or not but is not opposed to the attempt. Konrad Crockford, North Dakota commented he understands the effort to clarify this section of the handbook but is not sure about the flow of the proposed content. He also made the point that it is the inspector who needs to understand how to implement the language and attempting to clarify an item does not always accomplish that. The Committee recommends this item be given Developing status.</p>

- a. **To other commercial weighing and measuring equipment:**
- i. **when there is a fee assessed for the use of the equipment to determine a weight or measure;**
 - ii. **used to determine the bases of an award using count, weight, or measure when using weight, measure, or count as the basis to determine an award; or**
 - iii. **used in computing any basic charge or payment for services rendered on the basis of weight or measure.**

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

ITEM BLOCK 1 (B1) HB 130, UPLR, SEC. 2.8. MULTIUNIT PACKAGE. HB 133 MODIFY “SCOPE” FOR CHAPTERS 2 – 4, ADD A NOTE FOLLOWING SECTIONS 2.3.7.1. AND 2.7.3., CREATE A CHAPTER 5. SPECIALIZED TEST PROCEDURES AND HB133 APPENDIX F. GLOSSARY

B1: PAL-19.1	Section 2.8. Multiunit Package
B1: NET-19.1	Section 1.2.4. Maximum Allowable Variation
B1: NET-19.2	Modify “Scope” for Chapters 2 – 4, and a note following Section 2.3.7.1. Maximum Allowable Variation (MAV) Requirement and 2.7.3. Evaluation of Results – Compliance Determinations
B1: NET-19.3	Create a Chapter 5, Specialized Test Procedures
B1: NET-19.4	Appendix F. Glossary

(B1:NET-19.3, “Handbook 133, Create a Chapter 5. Specialized Test Procedures” must be adopted in order for the remainder of Item Block 1 to proceed.)

B1: PAL-19.1 W Section 2.8. Multiunit Package

Source:

NIST, Office of Weights and Measures

Purpose:

Eliminate conflicts between the UPLR and Federal Trade Commission (FTC) regulation for multiunit packages cited in 16 CFR 500.27.

Item Under Consideration:

Amend Handbook 130, Uniform Packaging and Labeling Regulation as follows:

2.8. Multiunit Package. – A package containing two or more individual packages of the same commodity, in the same quantity, intended to be sold as a multiunit package, ~~but where the component packages are labeled individually in full compliance with all requirements of this regulation.~~

B1: NET-19.1 W Section 1.2.4. Maximum Allowable Variation

Purpose:

Amend language regarding the total quantity declaration on multiunit or variety packages, when the MAV may need to be recalculated based on the Total Quantity MAV.

Item Under Consideration:

Amend Handbook 133, Chapter 1 as follows:

1.2.4. Maximum Allowable Variation

The limit of the “reasonable minus variation” for an under filled package is called a “Maximum Allowable Variation” (MAV). An MAV is a deviation from the labeled weight, measure, or count of an individual package beyond which the deficiency is considered an unreasonable minus error. Each sampling plan limits the number of negative package errors permitted to be greater than the MAV.

Packages may be offered for sale individually or offered for sale in multiunit packages or variety packages which contain two or more individual inner packages.

When packages are tested whether individual, multiunit, or variety packages, the MAV is applied to each package in the sample which has a minus package error.

When a total quantity declaration on a multiunit or variety package is being verified, and the MAV is not determined in terms of a percent of the labeled quantity, a “Total Quantity MAV” is compared to each minus Total Quantity Package Error(s) to determine if it is unreasonable.

$$\textit{Total Quantity Package Error} = \textit{Sum of Individual Inner Package Errors}$$

(Amended 2010 and 20XX)

Before determining the MAV and proceeding with tests of the quantity of contents in any multiunit or variety package, calculate the sum of the labeled quantity statements of all individual inner packages and verify that the labeled Total Quantity Statement reflects the accurate sum. If an error exists between the sum of the labeled quantity statements of individual inner packages and the Total Quantity Statement, the package is not in compliance and shall be deemed in violation of labeling requirements of NIST Handbook 130, Uniform Packaging and Labeling Regulation, requiring an accurate summing and statement of total quantity. Do not test for net quantity determination.

1.2.4.1. Total Quantity MAV for Multiunit and Variety Packages (See Chapter 5. “Specialized Test Procedures”)

- a. Multiunit Package. – In verifying a total quantity declaration that appears on a multiunit package compare a Total Quantity MAV to each minus Total Quantity Package Error to determine if the error is unreasonable. Calculate the Total Quantity MAV using the following formula:**

$$\textit{Total Quantity MAV} = \textit{Number of Individual Inner Packages} \times \textit{MAV for Individual Inner Package Quantity}$$

Terms are defined as:

Number of Individual Inner Packages. – The total number of individual inner packages having a uniform labeled weight, measure and/or count.

MAV for Individual Inner Package Quantity. – The MAV for the labeled quantity for the individual inner packages specified in the proper table of MAVs in Appendix A. “Tables.”

- b. Variety Package. – In verifying a total quantity declaration that appears on a variety package, compare a Total Quantity MAV to each minus Total Quantity Package Error to determine if the error is unreasonable. Calculate the Total Quantity MAV using the following formula:**

$$\textit{Total Quantity MAV} = \textit{The sum of the applicable MAVs for all Individual Inner Packages}$$

Variety packages include commodities that may be generically similar, but differ in weight, measure, volume, or design variation (e.g., color, flavor, scent, etc.) For these packages a Total Quantity MAV is calculated for each product type within the variety package and the results are added to obtain a Total Quantity MAV for comparison to each minus Total Quantity Package Error.

Terms are defined as:

Number of Individual Inner Packages. – The total number of similar but not identical individual inner packages with differing and/or uniform labeled weight or measure.

MAV for Individual Inner Package Quantity. – The MAV for the quantity declared for the individual inner packages specified in the appropriate MAV table in Appendix A. “Tables.”

(Added 20XX)

B1: NET-19.2 W Sections 2.1. Scope, 3.1. Scope, 4.1. Scope, 2.3.7.1. Maximum Allowable Variation (MAV) Requirement, and Section 2.7.3. “Evaluation of Results – Compliance Determinations”

Purpose:

With the adoption of Handbook 133, Chapter 5. Specialized Test Procedures this item clarifies the language within Handbook 133.

Item Under Consideration:

Amend Handbook 133, Chapters 2, 3, and 4 as follows:

Add a Note to Handbook 133, Chapter 2, Section 2.1. “Scope;” Section 3.1. “Scope;” and Section 4.1 “Scope” that refers users to the Chapter 5. “Specialized Test Procedures” for these types of packages.

Note: If Multiunit or Variety Packages are to be inspected, refer to Chapter 5. “Specialized Test Procedures” for guidance in testing.

If a total quantity declaration is being verified and the MAV to be applied is not based on a percentage of the labeled quantity, refer to Section 1.2.4.1. “Total Quantity MAV for Multiunit and Variety Packages.”

(Added 20XX)

Add the following note to HB133, Chapter 2, Section 2.3.7.1 “Maximum Allowable Variation (MAV) Requirement” and Section 2.7.3. “Evaluation of Results – Compliance Determinations.”

Note: If a total quantity declaration on a multiunit or variety package is being verified, and the MAV applied is not based on a percent of the labeled quantity see Section 1.2.4.1. “Total Quantity MAV for Multiunit and Variety Packages.

(Added 20XX)

B1: NET-19.3 W Create a Chapter 5. Specialized Test Procedures

Purpose:

Create new chapter in Handbook 133 that has specialized test procedures to verify the inner contents of multiunit and variety packages.

Item Under Consideration:

Amend Handbook 133, Chapter 5. Specialized Test Procedures as follows:

5.1. Scope

The following procedures are used in either verifying the net quantity of contents of retail multiunit packages with individual inner packages of the same commodity that have identically labeled quantities or in verifying retail variety packages with individual inner packages may differ in labeled weight, measure or volume.

1. The procedure used is determined by using the labeled net contents.

- **Use Section 5.2. “Individual Package Quantity” if a total net quantity of contents is not declared on the label of a multiunit or variety package of food for human consumption or meat or meat products from a USDA official establishment (see explanation in Section 5.2. for specific exemptions to requirement for a total net quantity statement.)**
- **Use Section 5.3. “Total Quantity” if a total net quantity of contents is declared on the package.**

Note: If the packages are labeled with additional quantity statements (i.e., dry volume, area, length, width, or thickness), added steps or, when proper, additional Total Quantity MAVs may be required in testing the accuracy of additional quantity statements.

5.2. Individual Package Quantity

This procedure is used only for verifying the total quantity statement of open or transparent-wrapped multiunit packages of foods for human consumption or meat or meat products under the authority of FDA or USDA, respectively. Under USDA-FSIS regulations (9 CFR 317.2 [h][12]) and FDA regulations (21 CFR 101.7 Chapter I [s]), such open multiunit packages that do not obscure the number of individual inner packages or the labeling of each individual inner package (compliant with all other location, type size, and applicable requirements) are not required to bear a total net quantity statement on the outside of the package (see Figure 1. Open or Transparent Multiunit Package with Fully Visible Individual Quantity Declarations).

Cereal	Cereal	Cereal	Cereal	Cereal
Net Wt. 100 g (3.5 oz)	Net Wt. 100 g (3.5 oz)	Net Wt. 100 g (3.5 oz)	Net Wt. 100 g (3.5 oz)	Net Wt. 100 g (3.5 oz)

Figure 1. Open or Transparent Multiunit Package with Fully Visible Individual Quantity Declarations

5.2.1. Test Procedure for Multiunit Packages Exempt from Total Quantity Statement (see Section 5.2.)

- 1. Follow Section 2.3.1. “Define the Inspection Lot.” The inspection lot is defined as the total number of individual inner packages in the multiunit packages (e.g., 120 packages × 12 individual inner packages = Inspection Lot size is 1440). Select “Category A” or “Category B” sampling plan in the inspection (depending on location of test) and select a random sample (See Section 2.3.4. “Random Sample Selection”).**
- 2. Determine an average tare weight according to Section 2.3.5. “Procedures for Determining Tare and Average Tare Weight.” Follow Section 2.3.6. “Determine Nominal Gross Weight and Package Errors” to determine package errors.**
- 3. Determine the net quantity of each individual inner package in the sample.**

- If a count declaration is declared on the multiunit packages, verify using Section 4.2. “Packages Labeled by Count” and apply the appropriate MAV using Appendix A. Table 2-7. MAV for Packages Labeled by Count applied.

4. If minus package errors are found in the sample, the value of the MAV to be applied is determined by matching the labeled net quantity for the individual inner packages to the applicable quantity range in the appropriate MAV table using Appendix A “Tables”.

Compare the MAV for the labeled quantity to each minus package error in the individual inner packages to determine if any are unreasonable using Section 2.3.7.1. “MAV Requirement”. If the number of unreasonable errors exceeds the amount allowed for the sample size (see Appendix A. Tables 2-1. “Sampling Plans for Category A” or Table 2-2. “Sampling Plans for Category B.” Column 4), the sample fails. If the sample passes, go to Step 5.

5. Apply Section 2.3.7.2. “Average Requirement.” Follow the procedures in Section 2.3.7. “Evaluation for Compliance.”

5.3. Total Quantity

Use this procedure to test multiunit packages labeled with a total count and/or total net quantity declaration. This procedure can be used to verify the total net quantity declared on open or closed multiunit packages or multiunit packages with transparent or opaque packaging. If the quantities of the individual inner packages vary (which is allowed in Variety Packages) or, if the quantity of the individual inner packages is not declared, see Section 5.4. “Exceptions”.

Before determining the MAV and proceeding with tests of the quantity of contents in any multiunit package, calculate the sum of the labeled quantity statements of all individual inner packages and verify that the labeled Total Quantity Statement reflects the accurate sum. If an error exists between the sum of the labeled quantity statements of individual inner packages and the Total Quantity Statement, the package is not in compliance and shall be deemed in violation of labeling requirements of NIST Handbook 130 Uniform Packaging and Labeling Regulation, requiring an accurate summing and statement of total quantity. Do not test for net quantity determination.

5.3.1. Test Procedure for Multiunit Packages

1. Follow Section 2.3.1. “Define the Inspection Lot” to define the inspection lot (number of multiunit packages). Use the inspection lot size and select a “Category A” or “Category B” sampling plan (see Appendix A. “Tables”) in the inspection plan and select a random sample. (see Section 2.3.2. “Select Sampling Plans” and Section 2.3.4. “Random Sample Selection”).
2. For packages labeled by weight, determine the tare weight and nominal gross weight. Follow Section 2.3.5. “Procedures for Determining Tare” through Section 2.3.6. “Determine Nominal Gross Weight and Package Error” to determine package errors in the quantity of the individual inner packages as compared to the total package quantity declaration.
3. Determine the net quantity of each multiunit package and calculate the Total Quantity Package Error for each multiunit package.

The Total Quantity Package Error is the sum of the errors found in the individual inner packages.

$$\textit{Total Quantity Package Error} = \textit{Sum of Individual Inner Package Errors}$$

If applicable, verify the count declaration of the individual inner packages. To determine the MAV for count, use Appendix A. Table 2-7. “MAV for Packages Labeled by Count.”

4. If minus Total Quantity package errors are found in the sample, use the MAV for the individual inner package labeled quantity. (see Section 1.2.4.1. “Total Quantity MAV for Multiunit and Variety Packages” and the appropriate MAVs in Appendix A “Tables”). Calculate the Total Quantity MAV to be applied to the total quantity of contents declaration as follows:

$$\text{Total Quantity MAV} = \text{Number of Individual Inner Packages} \times \text{MAV for Individual Inner Package Quantity}$$

Note: A Total Quantity MAV is not required when the MAV to be applied is based on a percent of a labeled quantity of a multiunit or variety package.

5. The Total Quantity MAV is compared to each minus Total Quantity Package Error to determine if any errors are unreasonable (See Section 2.3.7.1. “MAV Requirement”).
- If the number of unreasonable errors exceeds the number allowed for the sample size the lot fails. (See Section 2.3.1. “Define the Inspection Lot” and Tables 2-1 or 2-2, Column 4).

5.4. Exceptions for Multiunit Packages

5.4.1. Multiunit Packages with Only a Total Quantity Declaration

NIST Handbook 130, Uniform Packaging and Labeling Regulation (UPLR), Section 10.4. “Multiunit Packages” states that unlabeled individual packages not intended for individual retail sale are only required to declare a total quantity declaration (see Figure 2. Multiunit Package [three packages] with only a Total Quantity Declaration). While not required, UPLR, Section 10.4. “Multiunit Packages” does allow for multiunit packages to include an optional statement for the count of the individual inner packages despite their not being fully labeled or intended for individual retail sale.

<u>Floor Cleaner</u>	<u>Floor Cleaner</u>	<u>Floor Cleaner</u>
	<u>NET WEIGHT</u> <u>15 kg (33 LB)</u>	

Figure 2. Multiunit Package (three packages) with only a Total Quantity Declaration

5.4.1.1. MAV Application

When multiunit package label does not include a quantity statement for each individual inner package (e.g., only a total quantity appears) a Total Quantity MAV cannot be applied because the quantities in the individual inner packages are unknown. In this case, the MAV value for the total quantity declaration as listed in the MAV tables (See Appendix A. Tables) is compared to the Total Quantity Package Error to determine if any package errors are unreasonable (see Section 2.3.7.1. “MAV Requirement”).

5.4.2. Variety Packages: Non-Uniform Quantity Declarations

UPLR, Section 10.6. “Variety Packages” states that a variety package is required to have total quantity declaration. The commodities may be generically similar; however, they can differ in weight, measure, volume, or style variation (e.g., color, flavor, scent, etc.). When the labeled weight, measure, or count varies, the value of the applicable MAV can also vary.

When variety packages are tested, the procedure used to calculate a Total Quantity MAV requires the summing of the MAV values over the number of inner packages of all types. An example is shown in Figure

3. Variety Package – Four Similar but Different Products with Varying Net Weights) to illustrate a total quantity declaration, count, and the weight of the individual inner packages.)

<u>30 Candy Bar – Variety Pack</u> <u>Total Net Weight 1.33 kg (2.9 LB)</u>	
<u>10 – 55 g (1.9 oz)</u> <u>Peanut Butter Cups</u>	<u>6 – 30 g (1.1 oz)</u> <u>Dark Chocolate Bars</u>
<u>6 – 46 g (1.6 oz)</u> <u>Milk Chocolate Bars with Almonds</u>	<u>8 – 41 g (1.5 oz)</u> <u>Milk Chocolate Bars</u>

Figure 3. Variety Package – Four Similar but Different Products with Varying Net Weights

5.5. Test Procedure for Variety Packages Containing Individual Packages with Varying Net Weights

Before determining the MAV and proceeding with tests of the quantity of contents in any variety package, calculate the sum of the labeled quantity statements of all individual inner packages and verify that the labeled Total Quantity Statement reflects the accurate sum. If an error exists between the sum of the labeled quantity statements of all individual inner packages and the Total Quantity Statement, the package is not in compliance and shall be deemed in violation of labeling requirements of NIST Handbook 130 Uniform Packaging and Labeling Regulation, requiring an accurate summing and statement of total quantity. Do not test for net quantity determination.

- 1. When a variety package with individual inner packages with varying net weights is tested, the average tare weight (e.g., packaging from the individual inner packages and the outer package combined) is determined and a nominal gross weight is used to determine the error in the total quantity declaration.**

$$\textit{Total Quantity Package Error} = \textit{Sum of Individual Inner Package Errors}$$

Note: Example is based on Weight (see Figure 3. Variety Package – Four Similar but Different Products with Varying Net Weights)

$$\textit{Nominal gross weight} = \textit{average tare weight} + \textit{labeled weight}$$

$$\textit{Package error} = \textit{gross weight} - \textit{nominal gross weight}$$

MAVs used in calculating the Total Quantity Package MAV are based on the respective labeled quantities of each product type and are calculated for each product type within the variety package. The calculated MAVs for each of the product types are summed to obtain the Total Quantity MAV (See example shown in Table 1. Steps in Calculating a MAV for a Variety Package).

5.6. MAV Application

A Total Quantity MAV must be applied because the labeled quantities and MAVs of the individual inner packages vary. For example, based on the quantity of the total net weight (as shown in Figure 3. Variety Package- Four Similar but Different Products with Varying Net Weights) the MAV for 1.33 kg (2.9 LB) is 42.6 g (0.094 LB) but the “Total Quantity MAV” to be applied is 122.4 g (4.261 oz) (0.27 lb)(See example shown in Table 1. Steps in Calculating a MAV for a Variety Package).

Table 1. Steps in Calculating a MAV for a Variety Package (Based on Figure 3. Variety Package – Four Similar but Different Products with Varying Net Weights)				
<u>Product</u>	<u>Number of Inner Packages</u>	<u>Labeled Net Weight (each individual inner package)</u>	<u>MAV for each Individual Inner Package Based on the Labeled Net Quantity (see MAV Table 2-5)</u>	<u>Total MAV</u>
<u>Peanut Butter Cups</u>	<u>10</u>	<u>55 g (1.94 oz)</u>	<u>5.4 g (0.1875 oz)</u>	<u>10 × 5.4 = 54 g (10 × 0.1875 oz = 1.875 oz)</u>
<u>Dark Chocolate Bars</u>	<u>6</u>	<u>30 g (1.06 oz)</u>	<u>10 % of labeled quantity</u>	<u>6 × (0.1 × 30) = 18 g 6 × (0.1 × 1.06 oz) = 0.636 oz</u>
<u>Milk Chocolate Bars</u>	<u>8</u>	<u>41 g (1.45 oz)</u>	<u>3.6 g (0.125 oz)</u>	<u>8 × 3.6 = 28.8 g (8 × 0.12 oz = 1 oz)</u>
<u>Milk Chocolate Bars with Almonds</u>	<u>6</u>	<u>46 g (1.62 oz)</u>	<u>3.6 g (0.125 oz)</u>	<u>6 × 3.6 = 21.6 g (6 × 0.125 oz = 0.75 oz)</u>
			<u>Total Quantity MAV</u>	<u>122.4 g (4.261 oz) (0.27 LB)</u>

(Added 20XX)

B1: NET-19.4 W Appendix F. Glossary

Purpose:

This will add definitions for multiunit, variety and total quantity MAV into Handbook 133, Appendix F.

Item Under Consideration:

Amend Handbook 133, Appendix F as follows:

Multiunit Package. – A package containing two or more individual packages of the identical commodity, in the same quantity, intended to be sold as a multiunit package

Variety Package. – A package intended for retail sale, containing two or more individual packages or units of similar, but not identical, commodities. Commodities that are generically alike, but that differ in weight, measure, volume, or style variation (e.g. color, flavor, scent, etc.) are considered similar, but not identical.

Total Quantity MAV. – A calculated value used to determine if any minus Total Quantity Package Error found in a multiunit or variety packages is unreasonable. A Total Quantity MAV is based on the declared quantity and count of the individual inner packages. It is determined by obtaining the applicable MAV for each individual inner package quantity from the appropriate Mav table (refer to Appendix A. “Tables” and then calculating the “Total Quantity MAV” as follows:

- **Multiunit Package: Total Quantity MAV = Number of Individual Inner Packages × MAV for Individual Inner Package Quantity**
- **Variety Package: Total Quantity MAV = The sum of the applicable MAVs for all Individual Inner Packages.**

Note: A Total Quantity MAV is not used when the MAV applied is based on a percentage of the labeled quantity on a multiunit or variety package

Note: Total Quantity Package Error = Sum of Individual Inner Package Errors.

Background/Discussion:

This item was originally submitted and developed by:

Ms. Lisa Warfield
NIST, Office of Weights and Measures
301-975-3308, lisa.warfield@nist.gov

When current test procedures in Handbook 133 are used and an MAV is applied to the total quantity declaration on some multiunit and variety packages the MAV allowed for the individual inner packages can indirectly be reduced as much as 50 % or more, depending on the number of individual items in the package. This proposal modifies Handbook 133 to add language regarding the total quantity declaration on multiunit or variety packages, when the MAV may need to be recalculated based on the Total Quantity MAV.

When a total quantity declaration on a multiunit or variety package is verified, it will require the inspector, except when the MAV is based on a percentage of the labeled quantity, to calculate and use a “Total Quantity MAV.” This calculation will determine if minus package errors are unreasonable (an unreasonable error is a minus package error that exceeds an MAV specified in the proper table of MAVs in Handbook 133, Appendix A. “Tables”) A “Total Quantity MAV” is calculated by multiplying the number of individual inner packages by the MAV value, which is based on the declared quantity of the individual inner packages. It is found by looking up the MAV for the individual inner package quantity (See HB 133, Appendix A. “Tables”) and then calculating the “Total Quantity MAV.” This test procedure will be used to assist inspectors with their inspection.

NCWM 2020 Interim Meeting: Comments were heard recognizing the merit of this item. Several regulators and an industry member made comments that some areas within the test procedure are too confusing. Mr. Tim Chesser (Arkansas) remarked that he does not understand Item Net 3. Section 5.4.1.1. MAV Application. Mr. Kurt Floren (Los Angeles County, California) submitted editorial changes. The Committee accepted these revisions for the entire Item Block 1. In addition, the Committee would like NIST/OWM to address Mr. Floren’s comments for Item NET-3. Chapter 5. Specialized Test Procedures will be reviewed by the NIST/OWM. Due to the Federal Government furlough, NIST OWM was not in attendance, so concerns could not be addressed at the meeting. The Committee would like the submitter to review formatting, clarifying label quantity, and modifying language for additional clarity. The Committee would like to see the above issues reviewed by the submitter and encourages further development.

NCWM 2019 Annual Meeting: Ms. Warfield stressed to membership that this item is fully developed and a technical document and supporting data was submitted that supports these proposals. The document also provides for examples that inspectors found pertaining to multiunit and variety packages during inspections. NIST addressed the WWMA comments in the latest Item under Consideration. There were no additional comments heard at the Annual Meeting.

NCWM 2020 Interim Meeting: Ms. Warfield provided an update on the last language submitted for this item on December 27, 2019. She remarked the work done to develop the proposal and clarify the procedure language. Ms. Warfield reminded the audience NET-19.3 creates a Chapter 5, “Specialized Test Procedures” must be approved for the rest of the items in the block to proceed. This block of items was submitted by OWM after some states requested assistance inspecting these types of packages. Mr. Chris Guay (Procter and Gamble Co.) gave merit to the item but requested review of the definition of “multiunit package” and referred to the definition in CFR 21. Mr. Kurt Floren (Los Angeles County, California) expressed his support for the item but pointed out some punctuation and editorial changes were needed. He said wording in Section 5.4.3 can be improved for clarity. Ms. Ann Boeckman (Kraft Heinz Foods Co.) also expressed concerns about the definition of multiunit package for retail sale. Opinions from Ms. Angela Godwin (Ventura County, California) and Ms. Katherine DeContreras (CA) were heard during the open hearing; both agreed the procedure is confusing and needs additional work but, both concur the item has merit.

There were concerns that membership may not have reviewed the modifications submitted by NIST OWM in December 2019. There was some confusion as to whether members comments were still valid since they did not review the latest language. All comments received gave merit to the blocked Item but, some still expressed concern about the definitions of multiunit packages for retail sale and others found the language of the procedure to be confusing. Based on the comments, the L&R Committee would like the submitter to review possible issues with the definition of Multiunit packages and, to work on the procedure language to improve clarity. The L&R Committee recommends the Item Block 1 be Informational to allow the submitter to do an additional review.

NCWM 2021 Interim Meeting: Mr. Floren expressed concerns that the language in certain areas of B1: NET-19.1 and B1: NET-19.3 could use some clarity. He also recommends that the Committee consider adding in additional information directing the user to the federal regulations for USDA/FSIS and FDA for packaged foods for human consumption.

Ms. Warfield remarked there is a supporting document that provides the varying definitions for multiunit from FTC, FDA, and USDA regulations. The Committee does have a copy to assist them in deciding to how to proceed with this block. She expressed concern that at NCWM and regional meetings there is not specific feedback as to what is required to get this item voting status. NIST OWM has provided all supporting data and technical papers to explain how this information was developed. She suggested that if the Committee is unable to elevate this to voting status, they should withdraw it and NIST would incorporate this procedure in the HB133 training courses.

Mr. Floren and Ms. Warfield agreed to work together in preparing Mr. Floren's recommendations for acceptance into the report.

The following recommendations that reflected with either a double underscore or double strikethrough:

B1: NET-19.1. changes:

1.2.4. Maximum Allowable Variation

The limit of the "reasonable minus variation" for an underfilled package is called a "Maximum Allowable Variation" (MAV). An MAV is a deviation from the labeled weight, measure, or count of an individual package beyond which the deficiency is considered an unreasonable minus error. Each sampling plan limits the number of negative package errors permitted to be greater than the MAV.

Packages may be offered for sale individually or offered for sale in multiunit packages or variety packages, which contain two or more individual inner packages.

When individual packages are tested whether individual, multiunit, or variety packages, the MAV is applied to each package in the sample which has a minus package error.

Add a paragraph to make it clear to the inspector how to handle a package that is not in compliance and due to a Packaging and Labeling Regulation violation

Before determining the MAV and proceeding with tests of the quantity of contents in any multiunit or variety package, calculate the sum of the labeled quantity statements of all individual inner packages and verify that the labeled Total Quantity Statement reflects the accurate sum. If an error exists between the sum of the labeled quantity statements of individual inner packages and the Total Quantity Statement, the package is not in compliance and shall be deemed in violation of labeling requirements of NIST Handbook 130, Uniform Packaging and Labeling Regulation, requiring an accurate summing and statement of total quantity. Do not test for net quantity determination.

1.2.4.1. Total Quantity MAV for Multiunit and Variety Packages (See Chapter 5. "Specialized Test Procedures")

- a. Multiunit Package. – In verifying a total quantity declaration that appears on a multiunit package, compare a Total Quantity MAV to each minus Total Quantity Package Error to determine if the error is unreasonable. Calculate the Total Quantity MAV using the following formula:
- b. Variety Package. – In verifying a total quantity declaration that appears on a variety package, compare a Total Quantity MAV to each minus Total Quantity Package Error to determine if the error is unreasonable. Calculate the Total Quantity MAV using the following formula:

Total Quantity MAV = The sum of the applicable MAVs for all Individual Inner Packages

Variety packages include commodities that may be generically similar, but differ in weight, measure, volume, or appearance design variation (e.g., color, flavor, scent, etc.). For these packages, a Total Quantity MAV is calculated for each product type within the variety package and the results are added to obtain a Total Quantity MAV for comparison to each minus Total Quantity Package Error.

Changes to B1: NET-19.3 are reflected below:

5.1. Scope

The following procedures are used in either verifying the net quantity of contents of retail multiunit packages with individual inner packages of the same commodity that have identically-labeled quantities or in verifying retail variety packages with individual inner packages that differ in labeled weight, measure or volume.

1. The procedure used is determined by using the labeled net contents.

- Use Section 5.2. “Individual Package Quantity” if a total net quantity of contents is not declared on the label of a multiunit or variety package of food for human consumption or meat or meat products from a USDA official establishment (See explanation in Section 5.2. of specific exemptions to requirement for a total net quantity statement).
- Use Section 5.3. “Total Quantity” if a total net quantity of contents is declared on the package.

Note: If the packages are labeled with additional quantity statements (i.e., dry volume, area, length, width, or thickness), added steps or, when proper, additional Total Quantity MAVs may be required in testing the accuracy of such additional quantity statements.

Changes to Section 5.2. will add additional language to clarify how to inspect packaged foods for human consumption. The CFR links are hyperlinked to provide inspectors direct access to the CFR information if they are using an online handbook.

5.2. Individual Package Quantity

This procedure is used only for verifying the total content statement of open or transparent-wrapped multiunit packages of foods for human consumption or meat or meat products under the authority of FDA or USDA, respectively. Under USDA FSIS regulations (9 CFR 317.2 [h][12]) and FDA regulations (21 CFR 101.7 Chapter I [s]), such open multiunit packages that do not obscure the number of individual inner packages or the labeling of each individual inner package (compliant with all other location, type size, and applicable requirements) are not required to bear a total net quantity statement on the outside of the package (see Figure 1. Open or Transparent Multiunit Package with Fully Visible Individual Quantity Declarations).

The capture for Figure one should be clarified to read, Figure 1. Open or Transparent Multiunit Package (containing two rows of packages) with Fully Visible Individual Quantity Declarations

5.2.1. Test Procedure for Multiunit Packages Exempt from Total Quantity Statement (See Section 5.2)

Step 4 in this section should be clarified to read: **If minus package errors are found in the sample, the value of the MAV to be applied is determined by matching the labeled net quantity for the individual inner packages to the applicable value in the appropriate MAV table (see Appendix A “Tables”).**

Add a statement to Section 5.3. Total Quantity to make it clear to the inspector how to handle a package that is not in compliance and due to a Packaging and Labeling Regulation violation

Before determining the MAV and proceeding with tests of the quantity of contents in any multiunit package, calculate the sum of the labeled quantity statements of all individual inner packages and verify that the labeled Total Quantity Statement reflects the accurate sum. If an error exists between the sum of the labeled quantity statements of individual inner packages and the Total Quantity Statement, the package is not in compliance and shall be deemed in violation of labeling requirements of NIST Handbook 130 Uniform Packaging and Labeling Regulation, requiring an accurate summing and statement of total quantity. Do not test for net quantity determination.

5.4. Exceptions for Multiunit Packages

5.4.1. Multiunit Packages with Only a Total Quantity Declaration

NIST Handbook 130, Uniform Packaging and Labeling Regulation (UPLR), Section 10.4. “Multiunit Packages” states that when containing unlabeled individual packages and not intended for individual retail sale, the multiunit package only requires a total quantity declaration (see Figure 2. Multiunit Package [three packages] with only a Total Quantity Declaration). While not required, UPLR, Section 10.4. “Multiunit Packages” does allow for multiunit packages to include an optional statement for the count of the individual inner packages despite their not being fully labeled or intended for individual retail sale even when the UPLR, Section 10.4. “Multiunit Packages” regulations do not require such a statement.

5.5. Test Procedure for Variety Packages Containing Individual Packages with Varying Net Weights

When a variety package with individual inner packages of varying net weights is tested, the average tare weight (e.g., packaging from the individual inner packages and the outer package combined) is determined and a nominal gross weight is used to determine the error in the total quantity declaration.

Changes for B1: NET-19. 4 appear below

Multiunit Package. - A package containing two or more individual packages of the identical commodity, in the same quantity, intended to be sold as a multiunit package

Variety Package. – A package intended for retail sale, containing two or more individual packages or units of similar, but not identical, commodities. Commodities that are generically alike, but that differ in weight, measure, volume, appearance or style variation (e.g., color, flavor, scent, etc.) or quality, are considered similar, but not identical.

Total Quantity MAV. – A calculated value used to determine if any minus Total Quantity Package Error found in a multiunit or variety package is unreasonable. A Total Quantity MAV is based on the declared quantity and count of the individual inner packages. It is determined by obtaining the applicable MAV for each individual inner package quantity from the appropriate MAV table (refer to Appendix A. “Tables”) and, then, calculating the “Total Quantity MAV” as follows:

- **Multiunit Package:**
Total Quantity MAV = Number of Individual Inner Packages × MAV for Individual Inner Package Quantity

- **Variety Package:**
Total Quantity MAV = The sum of the applicable MAVs for all Individual Inner Packages

Several regulators spoke in support of having this item further developed based upon Mr. Floren's comments. They persuaded the Committee from removing any of the Items from the Block that were deemed fully developed and ready for Voting status. This will allow the item to move forward together since the language impacts the various sections.

Mr. Guay (retired) does like the intent of the proposal but struggles with removing language from the definition of a multiunit package because the definition is well understood by industry. Mr. Ed Coleman (TN) remarked that this test procedure appears to be a very involved process and questioned if this could only be done in a point of pack. Mr. Coleman remarked their state would normally do an audit test at retail locations and he is unsure how practical this procedure is.

During the Committee work session, there was limited time for the Committee to revise the language. The Committee approved the recommendations addressed by Mr. Floren and NIST and will be incorporated into the Item under Consideration. The Committee is also recommending the language remain in Informational status to obtain feedback from the Regional Associations.

NCWM 2021 Annual Meeting: Mr. Floren provided a few minor editorial changes within the entire block; with those changes he does support. He did request that the Committee review B1: NET-19.3 Section 5.5.1., the equation is not accurate. At the Committee work session Ms. Warfield provided a correction to the language in Section 5.5.1. The current Item under Consideration was modified to include editorial changes and clarity to the equation under Section 5.5.1.

Regional Associations' Comments:

WWMA 2019 Annual Meeting: Mr. Kurt Floren (Los Angeles County, CA) commented that he submitted his changes to the language to NIST/OWM. Ms. Warfield (NIST OWM) will immediately forward to the three upcoming regional meetings, the updated language presented at the WWMA for inclusion in their regional reports. Based off comments heard the WWMA supports the concept of this item and encourages NIST to include changes presented at the WWMA in developing this item. The Committee recommends this item remain a Developing item.

SWMA 2019 Annual Meeting: It was noted that in B1:NET 19.1. Section 1.2.4. a sentence appears twice in the report. The language appearing with double strikethrough below should be removed.

1.2.4. Maximum Allowable Variation

The limit of the "reasonable minus variation" for an under filled package is called a "Maximum Allowable Variation" (MAV). An MAV is a deviation from the labeled weight, measure, or count of an individual package beyond which the deficiency is considered an unreasonable minus error. ~~Each sampling plan limits the number of negative package errors permitted to be greater than the MAV, unreasonable minus error.~~ Each sampling plan limits the number of negative package errors permitted to be greater than the MAV. **Packages are offered for sale individually or in multiunit packages which may contain two or more individual inner packages. When individual packages are tested the MAV is applied to each package in the sample which has a minus package error. When a total quantity declaration on a multiunit or variety package is verified, and the MAV is not determined in terms of a percent of the labeled quantity, a "Total Quantity MAV" is compared to the minus Total Quantity Package Error(s) to determine if they are unreasonable.**

In B1:NET19.2. the Header title needs to be amended to include 2.7.3. "Evaluation Results."

The SWMA is recommending that the submitter review the language for clarity. In Item B1:NET-19.3 Section 5.1. the first sentence needs to be broken into separate sentences for clarity reasons. The Committee does believe this item has merit. The Committee is requesting that the submitter continue to work to simplify the test procedure. The Committee does not believe it is necessary to have Section 5.2. Individual Package Quantity. For the reasons mentioned above the Committee is recommending this as a Developing item.

NEWMA 2021 Annual Meeting: Ms. Warfield commented that she is working with Mr. Floren and believes this item is fully developed and should be moved to voting status for consideration by the Fall 2021 Regional meetings. Ms. Warfield requested and encouraged comments prior to the fall regional meeting. The Committee believes it should be moved to Voting status for consideration in the fall.

CWMA 2021 Annual Meeting: Ms. Warfield thanked all the commenters. She said this item has been on the agenda since 2019 and indicated the language in this agenda has captured all the comments and changes to date which includes all concerns and issues addressed from past meetings. The background information has been fully updated. The Committee believes that the item has been fully developed but will be revisited at the 2021 CWMA Interim Meeting. This comment encompasses all of Block 1.

CWMA Report - ITEM BLOCK 1
<p>Regional recommendation to NCWM on item status:</p> <p> <input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input checked="" type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i> </p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Lisa Warfield, NIST Technical Advisor commented that when this issue was originally submitted it was only a test procedure, but in developing that item realized that additional sections of handbook need to be addressed. She is suggesting that the item be withdrawn, and instead they would use a revised version as a resource document. The Committee recommends this item be withdrawn.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

PAL – UNIFORM PACKAGING AND LABELING REGULATION

PAL-22.3 V Section 8.2. Calculation of Area of Principal Display Panel for Purposes of Type Size.

Source:

NIST, Office of Weights and Measures

Purpose:

Clarify Section 8.2. Calculation of Area of Principal Display Panel for Purposes of Type Sizes and update illustrations.

Item Under Consideration:

Amend Handbook 130, Uniform Packaging and Labeling Regulation, as follows:

8.2. Calculation of Area of Principal Display Panel for Purposes of Type Size. – The area of the principal display panel shall be:

- (a)** in the case of a rectangular container, one entire side that properly can be considered the principal display panel, the product of the height times the width of that side;

For Figure 3 Calculation of the Area of the Principal Display Area of a Rectangular Container, the area of the principal display panel is 20 cm (8 in) × 15 cm (6 in) = 300 cm² (48 in²).

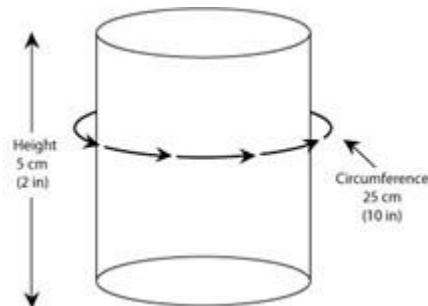
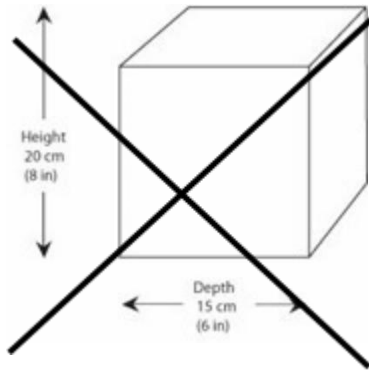


Figure 4. Calculation of the Area of the Principal Display Area of a Cylindrical Container

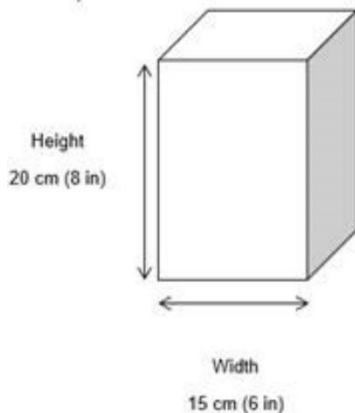


Figure 3. Calculation of the Area of the Principal Display Area of a Rectangular Container

- (b)** in the case of a cylindrical or nearly cylindrical container, ~~40 % of~~ the product of the height of the container times the circumference; times 40 %.

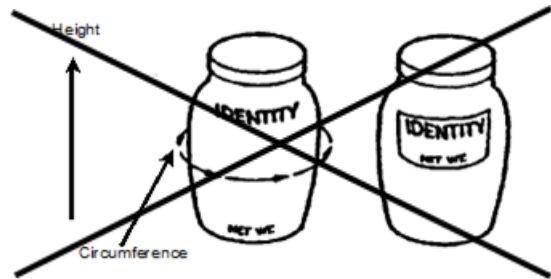
For Figure 4 Calculation of the Area of the Principal Display Area of a Cylindrical Container, the area of the principal display panel is:

$$\frac{25 \text{ cm (10 in)} \times 5 \text{ cm (2 in)}}{125 \text{ cm (20 in)} \times 0.40} = \frac{125 \text{ cm (20 in)} \times 0.40}{50 \text{ cm}^2 (8 \text{ in}^2)} \quad \frac{5 \text{ cm (2 in)} \times 25 \text{ cm (10 in)}}{125 \text{ cm (20 in)} \times 0.40} = \frac{50 \text{ cm}^2 (8 \text{ in}^2)}{50 \text{ cm}^2 (8 \text{ in}^2)}$$

(see also Section 10.7. Cylindrical Containers).

~~The area of the principal display panel is the same in both examples. The declaration of net quantity of contents must be of the same height in both cases. It is not the size of the label that is used to determine the minimum type size of the quantity statement, but the size of the surface of the package exposed to view to the customer. The package on the right side of the figure has a spot label (see Section 2.12. Spot Label and Section 11.29. Spot Label); and~~

(c) in the case of any other shaped container, 40 % of the total surface of the container, unless such container presents an obvious principal display panel (e.g., the top of a triangular or circular package of cheese, or the top of a can of shoe polish), in which event the area shall consist of the entire such surface. **Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars. See Figure 5. Other Shaped Containers.**



~~Figure 5. Other Shaped Containers.~~

~~Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.~~

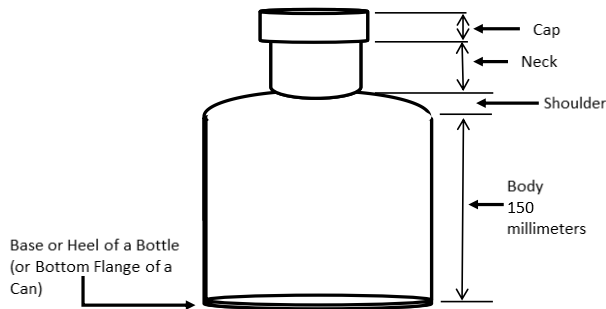
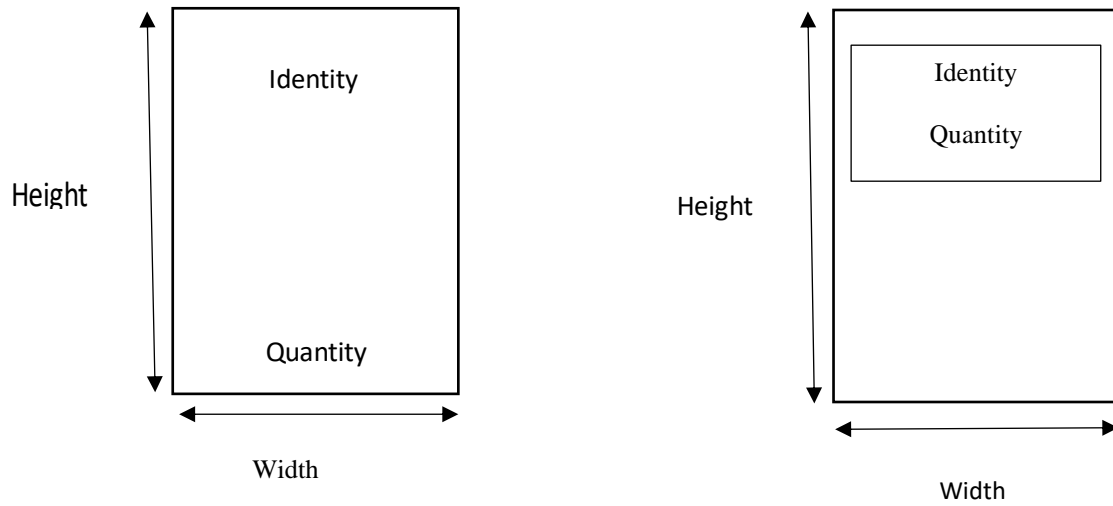


Figure 5. Other Shaped Containers.

(d) **In the case of a spot label, it is not the size of the label that is used to determine the minimum type size of the quantity statement, but the size of the surface of the package exposed (panel) viewable to the customer. The declaration of net quantity of contents must be of the same height in both cases. In Figure 6, the package on the right side of the figure has a spot label. The area of the principal display panel is the same in both examples. (see Section 2.12. Spot Label and Section 11.29. Spot Label).**

Figure 6. Spot Labels.



Previous Action:

N/A

Original Justification:

This section is being updated clarify through wording and graphic illustrations s as to how to properly calculate the area of a PDP for purposed of type size.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - PAL-22.3
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Lisa Warfield, NIST Technical Advisor commented that this is an update of the language and graphics for this item, and it is fully developed. There were no other comments heard on this item. Based on the supporting documents submitted by NIST, the Committee believes this item is fully developed and ready for voting status.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

MOS – UNIFORM REGULATION FOR THE METHOD OF SALE OF COMMODITIES

MOS-22.3 V Section 2.4. Fireplace and Stove Wood.

Source:

New Hampshire Division of Weights and Measures

Purpose:

To correct Part B. Uniform Regulation for the Method of Sale of Commodities and keep it consistent with federal requirements and to recognize products sold in the market that are not represented in current regulations. Also, to fix a couple unit representations.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

2.4. Fireplace and Stove Wood. – For the purpose of this regulation, this section shall apply to the sale of all wood, natural and processed, for use as fuel or flavoring.
(Amended 1999)

2.4.1. Definitions.

2.4.1.1. Fireplace and Stove Wood. – Any kindling, logs, boards, timbers, or other wood, natural or processed, split or not split, advertised, offered for sale, or sold for use as fuel.

(Amended 1991)

2.4.1.2. Cord. – The amount of wood that is contained in a space of 128 ft³ when the wood is ranked and well stowed. For the purpose of this regulation, “ranked and well stowed” shall be construed to mean that pieces of wood are placed in a line or row, with individual pieces touching and parallel to each other, and stacked in a compact manner.

2.4.1.3. Representation. – This shall be construed to mean any advertisement, offering, invoice, or the like that pertains to the sale of fireplace or stove wood.

2.4.1.4. Flavoring Chips. – Any kindling, logs, boards, timbers, or other natural or processed, split or unsplit wood that is advertised, offered for sale, or sold for flavoring smoked or barbecued foods.

(Added 1999)

2.4.2. Identity. – A representation may include a declaration of identity that indicates the species group (for example, 50 % hickory, 50 % miscellaneous softwood). Such a representation shall indicate, within 10 % accuracy, the percentages of each group.

2.4.3. Quantity. – Fireplace and stove wood shall be advertised, offered for sale, and sold only by measure, using the term “cord” and fractional parts of a cord or the cubic meter, except that:

(a) **Packaged natural wood.** – Natural wood offered for sale in packaged form in quantities less than 0.45 m³ (¹/₈ cord or 16 ft³) shall display the quantity in terms of:

(1) liters, to include fractions of a liter, and may also include a declaration of quantity in terms of cubic ~~foot or feet~~, to include fractions of a cubic foot.

(Amended 2010, ~~and 2016, and 20XX~~)

NOTE: Implementation for the requirement for use of the liter in (1); packages may continue to show the cubic decimeter (dm³) instead of liters (L) for four years after the effective date of this regulation to allow for the use of current packages inventories.

Effective date of enforcement shall be January 1, 2021.

(Added 2016) (Amended 2019 ~~and 20XX~~)

(b) **Artificial compressed or processed logs products.** – ~~A single fireplace log shall be sold by weight, and packages of such individual logs, Logs, bricks, or other shaped products larger than 15 cm (6 in) in any dimension~~ shall be sold by weight plus count.

(Amended 20XX)

(c) **Stove wood pellets or chips.** – Pellets or chips not greater than 15 cm (6 in) in any dimension shall be sold by weight. This requirement does not apply to flavoring chips.

(Amended 1976 and 1991)

(d) **Flavoring chips.** – Flavoring chips offered for sale in packaged form in quantities less than 0.45 m³ (¹/₈ cord or 16 ft³) shall display the quantity in terms of:

(1) liters, to include fractions of a liter, and may also include a declaration of quantity in terms of cubic ~~foot or feet~~, to include fractions of a cubic foot.

(Added 1998) (Amended 2010 ~~and 2016~~ and 20XX)

NOTE: In determining the appropriate Method of Sale, a clear distinction must be made as to whether the wood is being sold primarily as fuel (some wood is sold as fuel but flavoring is a byproduct) or strictly as a wood flavoring.

(Added 2010)

(Amended 1976, 1991, 1998, 2010, ~~and~~ 2016 and 20XX)

2.4.4. Prohibition of Terms. – The terms “face cord,” “rack,” “pile,” “truckload,” or terms of similar import shall not be used when advertising, offering for sale, or selling wood for use as fuel.

2.4.5. Delivery Ticket or Sales Invoice. – A delivery ticket or sales invoice shall be presented by the seller to the purchaser whenever any non-packaged fireplace or stove wood is sold. The delivery ticket or sales invoice shall contain at least the following information:

- (a) the name and address of the vendor;
- (b) the name and address of the purchaser;
- (c) the date delivered;
- (d) the quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (e) the price of the amount delivered; and
- (f) the identity, in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

(Added 1975)

Previous Action:

N/A

Original Justification:

2.4.3. Quantity. (b) Artificial compressed or processed logs.

Compressed firewood bricks are a popular product and are sold as a cleaner and more efficient alternative to cordwood. Since the regulation for artificial compressed or processed logs was added to the Handbook in 1976, compressed wood products, other than logs, have entered the market.

Compressed firewood bricks are generally sold in multipacks. There are some manufacturers that provide a net weight declaration on the multipack but there are several manufacturers that provide no declaration. Bulk sales have been advertised and sold by the pallet or skid (no weight representation), by the number of multipacks on a pallet (no weight representation), by the ton, or with a representation that a pallet equals 1 cord of firewood. When compressed firewood bricks are sold by the pallet, by the number of multipacks per pallet, or by the representation that it equals (1) cord (or a portion thereof), the consumer has no way to determine value from one manufacturer to another and no way of knowing what they are purchasing, except through a visual representation. Unless the consumer knows both the weight of each multipack and the total weight representation of the “pallet” of compressed firewood bricks, they would have a very hard time determining whether a bulk purchase is a better value than purchasing a single multipack. Also, if manufacturers are selling bulk products in different ways, it makes it difficult for businesses to compete.

The proposed update will give clarification and direction on how compressed firewood bricks shall be sold. This handbook change will help 1) sellers to compete with other brands on the same playing field, 2) buyers with value comparison, and 3) regulators to know how to enforce the advertising and selling of this type of commodity.

2.4.3. Quantity. (a) Packaged natural wood. (1) and (d) Flavoring chips. (1)

The change to the units in these paragraphs is to represent “like for like”.
“liters are to feet” as “a liter is to a foot” (plural and singular representations)

The submitter acknowledged the following:

- “Artificial compressed and processed logs” could be understood to include other compressed products used for heating fuel.
- As for the units change, this part of the code was amended in 2019 and included both regulators and industry, so individuals may question why it needs to be changed.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - MOS-22.3
<p>Regional recommendation to NCWM on item status:</p> <p> <input checked="" type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i> </p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Lisa Warfield, NIST Technical Advisor commented that there is additional language she would like the committee to consider in the NEWMA and WWMA reports. Based on review of the revisions recommended in the 2021 NEWMA Interim L&R Report, the Committee supports the revisions and believes this item is fully vetted and ready for voting status with revisions.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

MOS-22.4 V Section 2.16. Compressed or Liquefied Gasses in Refillable Cylinders.

Source:

NIST, Office of Weights and Measures

Purpose:

Update the Method of Sale of Commodities Regulation, Section 2.16. Compressed or Liquefied Gases in Refillable Cylinders to align with the U.S. Department of Transportation (DOT) requirements for the sale of LPG cylinders, that are enforceable after December 28, 2022.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

2.16. Compressed or Liquefied Gases in Refillable Cylinders.

2.16.1. Application. – This section does not apply to disposable cylinders of compressed or liquefied gases.

2.16.2. Net Contents. – The net contents shall be expressed in terms of cubic ~~volume or weight. meters or cubic feet, kilograms, or pounds and ounces.~~ **For liquefied petroleum gas (LPG), see Section 2.21.** Liquefied Petroleum Gas for permitted ~~units of measure expressions of for declarations for~~ **quantity of contents for liquefied petroleum gas.** A standard cubic foot of gas is defined as a cubic foot at a temperature of 21 °C (70 °F) and a pressure of 101.35 kilopascals (14.696 psia), except for liquefied petroleum gas as stated in Section 2.21. Liquefied Petroleum Gas.

2.16.3. Cylinder Labeling. – Whenever cylinders are used for the sale of compressed or liquefied gases by weight, or are filled by weight and converted to volume, the following shall apply:

2.16.3.1. Tare weights.

- (a) **Stamped or Stenciled Tare Weight.** – For safety purposes, the tare weight shall be legibly and permanently stamped or stenciled on the cylinder. All tare weight values shall be preceded by the letters “TW” or the words “tare weight.” The tare weight shall include the weight of the cylinder (including paint), valve, and other permanent attachments. The weight of a protective cap shall not be included in tare or gross weights. The 49 CFR 178.35 “General Requirements for Specification Cylinders” requires the maker of cylinders to retain test reports verifying the cylinder tare weight accuracy to the tolerance requirements within Section 2.16.3.1.(c). Allowable Difference.
- (b) **Tare Weight for Purposes of Determining the Net Contents.** – The tare weight used in the determination of the final net contents may be either:
- (1) the stamped or stenciled tare weight; or
 - (2) the actual tare determined at the time of filling the cylinder. If the actual tare is determined at the time of filling the cylinder, it must be legibly marked on the cylinder. ~~or on a tag attached to the cylinder at the time of filling.~~

Note: The removable protective cap and label are not included in the stamped or stenciled tare but must be included in the total tare determination.

- (c) **Allowable Difference.** – If the stamped or stenciled tare is used to determine the net contents of the cylinder, the allowable difference between the actual tare weight and the stamped (or stenciled) tare weight, or the tare weight on a tag attached to the cylinder for a new or used cylinder, shall be within:
- (1) ~~½ % for tare weights of 9 kg (20 lb) or less; or~~ – 3 % or + 1 % for a cylinder that weighs 11.34 kg (25 lb) or less.
 - (2) ~~¼ % for tare weights of more than 9 kg (20 lb);~~ – 2 % or + 1 % for a cylinder that weighs more than 11.34 kg (25 lb).

Note: The amended allowable differences in Section 2.16.3.1.(c)(1) and (2) shall be enforceable on all cylinders after December 28, 2022.

Failure of a cylinder tare weight to be within the required allowable difference is considered a Method of Sale violation. The cylinder shall be removed from use until the tare weight is corrected.

- (d) **The stamped or stenciled tare (without applying the allowable difference in (c) above) shall be used for purposes of verifying the net contents unless the actual tare weight is determined, then the actual tare weight shall be used for purposes of net content verification.**
- ~~(d) Average requirement. — When used to determine the net contents of cylinders, the stamped or stenciled tare weights of cylinders at a single place of business found to be in error predominantly in a direction favorable to the seller and near the allowable difference limit shall be considered to be not in conformance with these requirements.~~
- (Amended 20XX)**

2.16.3.2. Water Capacity Weight (WC).

The water capacity of the cylinder, used to determine the maximum filling level of a cylinder, must be marked on the cylinder at the time of manufacture. The water capacity shall be abbreviated WC. The water capacity for a cylinder 11.34 kg (25 lb) water capacity or less, shall be allowed an allowable difference of – 1 % and no plus allowance; or for a cylinder exceeding 11.34 kg (25 lb) water capacity, an allowable difference of – 0.5 % and no plus allowance.

(Added 20XX)

2.16.3.23. Acetylene Gas Cylinder Tare Weights. – Acetone in the cylinder shall be included as part of the tare weight.

2.16.3.34. Acetylene Gas Cylinder Volumes. – The volumes of acetylene shall be determined from the product weight using approved tables **available by contacting the NIST Office of Weights and Measures such as those published by in NIST Handbook 133** or those developed using 70 °F (21 °C) and 14.7 ft³ (101.35 kPa) per pound at 1 atmosphere as conversion factors.

2.16.3.45. Compressed Gases such as Oxygen, Argon, Nitrogen, Helium, and Hydrogen. – The volumes of compressed gases such as oxygen, argon, nitrogen, helium, or hydrogen shall be determined using NIST Standard Reference Database 23 “Reference Fluid Thermodynamic and Transport Properties Database” (REFPROP) (www.nist.gov/srd/REFPROP) and supplemented by additional procedures and tables **in NIST Handbook 133 available by contacting the NIST Office of Weights and Measures.**

(Added) 1981) (Amended 1990 **and 20XX**)

Previous Action:

N/A

Original Justification:

Add language to update and to align with Department of Transportation (DOT) Final Rule [Federal Register Volume 85, Number 248 (Monday, December 28, 2020)][Rules and Regulations](See [2020-26264.pdf \(govinfo.gov\)](#)) [Pages 85380-85437] regarding new requirements for the sale of LPG cylinders which is enforceable after December 28, 2022.

The submitter does not believe there will be opposition to this proposal since it is aligning with Federal regulations.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - MOS-22.4	
Regional recommendation to NCWM on item status:	
<input checked="" type="checkbox"/>	Recommend as a Voting Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Information Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i>
<input type="checkbox"/>	Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i>
<input type="checkbox"/>	Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i>
<input type="checkbox"/>	No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)	
Lisa Warfield, NIST Technical Advisor commented that OWM submitted these items to avoid conflicts between various federal entities and the method of sale section of the handbook. OWM recommends this proposal be a voting item, and the implementation date be December 2022 to align with the U.S. Department of Transportation. Doug Musick, Kansas commented that under tare weights, <u>item C.1 the words "an empty" be added to improve the proposed language.</u> He also asked if this requirement for marking a cylinder is the responsibility of the inspector or the entity selling the cylinder. Charlie Stutesman, Kansas asked for clarification on this item. Ms. Warfield responded that aligning the language in the handbook with USDOT is important, and if USDOT is asked to revise their language related to the sale of LP, it would likely be an arduous and time-consuming process. Ivan Hankins, Iowa commented that NIST and USDOT are discussing this issue and would like input from states. Mr. Stutesman further commented that he believes that while the USDOT rules are posted for comment, he is unsure how many states have read the proposed regulation and know how it affects their specific jurisdictions. He asks the L&R Committee to move cautiously on this item. Ms. Warfield commented that there is additional information in the analysis NIST submitted to NCWM and the regions for each item on the agenda. Based on the time-sensitive nature of this item, the Committee believes the item is ready for voting status with the proposed change to item C.1.	

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

MOS-20.5 V Section 2.21. Liquefied Petroleum Gas

Source:

Arizona Department of Agriculture, Weights and Measures Services Division

Purpose:

Provide clarity and consistency regarding the method of sale (MOS) for liquefied petroleum gas (LPG) through a meter that has a maximum rated capacity of 20 gal/min or less.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

2.21. Liquefied Petroleum Gas.

2.21.1. Method of Sale. – All liquefied petroleum gas, including, but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the following methods of sale. If kept, offered, exposed for sale, or sold by:

- (a) **Weight:** by the kilogram or pound; or by,
- (b) **Gaseous Volume:** by the metered cubic meter of vapor (defined as 1 m³ at 15 °C); or metered cubic foot of vapor (defined as 1 ft³ at 60 °F) ^[See Section 2.21. Note]; or by,
- (c) **Liquid:** by the liter (defined as 1 liter at 15 °C) or the gallon (defined as 231 in³ at 60 °F). ~~All metered sales by the or gallon, except those using meters with a maximum rated capacity of (20 gal)/min or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.~~

2.21.2. Metered Sales by Liquid Volume. – All metered sales by liquid volume shall be accomplished using metering systems as follows:

- (a) Sales using metering systems with a maximum rated capacity equal to or greater than 20 gal/min shall be accomplished by the use of a metering system that automatically compensates for the effects of temperature.
- (b) Sales using metering systems with a maximum rated capacity less than 20 gal/min that were placed into service after January 1, 2024 shall be accomplished by use of a metering system that automatically compensates for the effects of temperature.
- (c) Effective January 1, 2030, all metered sales (through all capacities of metering devices, regardless of installation and service date) shall be accomplished by use of a metering system that automatically compensates for temperature.

Section 2.21. NOTE: Sources: ~~American National Standards Institute, Inc., ANSI B109.1 (20082000), “American National Standard For Diaphragm-Type Gas Displacement Meters (14.16 Cubic Meters [Under 500 Cubic Feet] Per Hour Capacity and Under),” and NIST Handbook 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.”~~

(Added 1986, Amended 20XX)

Background/Discussion:

There appears to be a lack of clarity and consistency regarding the method of sale (MOS) for liquefied petroleum gas (LPG) through a meter that has a maximum rated capacity of 20 gal/min or less. The Uniform Regulation for the Method of Sale of Commodities, Section 2.2. Liquefied Petroleum Gas specifically exempts these meters from the use of automatic temperature compensation but defines a gallon as 231 in³ at 60 °F [15.6 °C]. With this definition, it can be interpreted that, while automatic temperature compensation is not required, the sale of LPG shall be temperature

compensated through manual means (or alternatively sold by weight). Temperature compensation manually requires the use temperature readings and a chart to manually perform conversions to determine the volume sold.

When discussing potential implementation of these requirements, propane industry officials in Arizona noted that other states do not require sale of LPG through these smaller meters to be temperature compensated or sold by weight and cited numerous problems with manual calibration or changing the MOS to sell by weight. An informal survey of western states appears to support that most do not enforce this requirement to sell LPG through these smaller meters by weight or temperature compensated.

Due to the inconsistency with the method of sale between various states and interpretation of this section, it is being proposed to exempt the sale of LPG through these smaller meters from temperature compensation. The item is proposed developing to allow for discussion and submittal of supporting cost analysis and impact to consumers and businesses that supports a requirement to sell LPG through these small meters as temperature compensated (or by weight).

The submitter noted that the sale of propane that is not temperature compensated can vary in quantities dispensed, which may provide a business or consumer with more or less product than stated.

NCWM 2020 Interim Meeting: Mr. Tim Chesser (AR) felt that the current proposal conflicts with language in Handbook 44. Ms. Tina Butcher (NIST OWM) responded the current language in Handbook 44 does not conflict with the language in this item, referencing language from Handbook 44 stating “If a device is equipped with an automatic temperature compensator.” This suggests that language in Handbook 44 does not require modification to accommodate devices with automatic temperature compensation capabilities. Mr. Constantine Cotsoradis (Flint Hill Resources) questioned if this proposal would have any benefit for consumers. Representing the submitter, Mr. Vince Wolpert (Arizona) stated that temperature in the state ranges from 32 to 100 degrees Fahrenheit and volume delivered for LP sales varies accordingly. As a result of the lack of consistency with volume delivered the state receives a lot of complaints concerning LP sales. Several regulators commented that the most equitable way to address the issue is to require automatic temperature compensation for all sales. The original submitter received feedback from the fall regions and modified the language (dated January 24, 2020). The submitter, Ms. Wilson recommended this modified language be vetted through the regional meetings and industry for consideration. Currently, the Committee concurs with the recommendation and moved this item forward as the Item Under Consideration as Informational.

On the 2020 NCWM Interim Agenda the item under consideration appeared as:

2.21. Liquefied Petroleum Gas. – All liquefied petroleum gas, including, but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot [^{NOTE 7, page 132}] of vapor (defined as 1 ft³ at 60 °F [15.6 °C]), or the gallon (defined as 231 in³ at 60 °F [15.6 °C]). All metered sales by the gallon, except those using meters with a maximum rated capacity of 20 gal/min or less, shall be accomplished by use of a meter and device that automatically compensates for temperature. **Metered sales using a meter with a maximum rated capacity of 20 gal/min or less is exempt from temperature compensation requirements.**

(Added 1986 **Amended 20XX**)

NCWM 2021 Interim Meeting: The language within NCWM Publication 15 appeared as:

2.21. Liquefied Petroleum Gas. – All liquefied petroleum gas, including, but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot [^{NOTE 7, page 132}] of vapor (defined as 1 ft³ at 60 °F [15.6 °C]), or the gallon (defined as 231 in³ at 60 °F [15.6 °C]). ~~All metered sales by the gallon, except those using meters with a maximum rated capacity of 20 gal/min or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.~~

(a) All metered sales by the gallon using a meter with a maximum rated capacity greater than 20 gal/min, shall be accomplished by the use of a meter and device that automatically compensates for temperature.

(b) For equipment placed in service on or after January 1, 2023, all metered sales using a meter with a maximum rated capacity of 20 gal/min or less shall be accomplished by use of a meter and device that automatically compensates for temperature.

(c) Effective January 1, 2030, all metered sales shall be accomplished by use of a meter and device that automatically compensates for temperature.

(Added 1986 Amended 20XX)

Mr. Chesser commented his concern with conflicts between the method of sale and Handbook 44 requirements. Ms. Tina Butcher (NIST OWM) addressed questions that were stated within the reporting for this item. Ms. Butcher also provided an in-depth background and discussion on this item. It was noted that NIST OWM submitted modified language that was posted under the NCWM L&R supporting documents.

Some of the bullet points that were in the NIST analysis of this item were:

- The existing language references a value of “15.6 °C” for temperature determinations in metric units, according to the current industry practice for sales of petroleum products, the reference temperature for sales in metric are based on 15 °C rather than the exact conversion from 60 °F (which is 15.6 °C). Thus, the temperature reference in metric should be 15 °C.
- The current method of sale for LPG requires sales based on a specified reference temperature because of the significant effects of temperature on the volume of LPG. This helps ensure equity for buyer and seller; facilitate value comparisons among competing applications; and deter those who would take advantage of the effects of temperature on volume from using these effects to their advantage during sales under given temperature conditions.
- There is some concern that including effective dates as shown in the Item Under Consideration does have the effect of rescinding the original requirement for certain categories of sales. Additionally, specifying such dates may possibly lead to future extensions of these date or permanent exceptions. However, if this proposal will allow the community to progress toward more uniform implementation of temperature compensation in the commercial measurement of LPG, this approach may prove to be a valuable tool for accomplishing this goal and improve understanding and consistent application of the requirements, and we believe the submitter is to be commended for striving to achieve this clarity and uniformity in application.
- The second clause of the current Item Under Consideration addresses equipment put into service as of January 1, 2023. The generic reference to “equipment placed into service” implies that only newly installed equipment with flow rates of 20 gpm or less needs to include automatic temperature compensation capabilities. This could be misconstrued as negating the first clause in the proposal. We believe the intent of the submitter was to simply expand the requirement for “automatic” temperature compensation capability for metering systems above 20 gpm to include those systems below this flow rate point. Thus, a recommended alternative is included in the suggested changes.

Formatting Changes:

- By formatting the language into sub-sections, it makes the method of sale requirement easier to follow and apply and facilitates consideration of the Item Under Consideration.
- For the next released edition of Handbook 130, NIST OWM will be reformatting the references to “Notes” and their associated page numbers and replacing these with notes formatted as “Section ##. Note.”

Mr. Scott Simmons (Colorado) led a discussion regarding some of the issues that his state has faced regarding LPG sales. Mr. Simmons and many other regulators expressed support for this Item. It was expressed that many were unaware of the NIST modified proposal. L&R Chair McGuire encouraged membership to review the NIST proposal. During the Committee work session both the original and NIST proposals were discussed. A Committee member expressed concern that industry may be unaware of this agenda item. Several Committee members commented that

they would reach out to their industry contacts to alert them. The Committee heard many comments that they supported the NIST proposal. The Committee was appreciative that NIST had reformatted the structure to make the language easier to read. The Committee recommends this move forward as a Voting item.

NCWM 2021 Annual Meeting: Mr. Swiecicki (NPGA) expressed concern with the language for temperature compensation and how the mechanical devices have a lag in correcting the temperature. Mr. Swiecicki did request that the date in Section 2.21.2.(b) be moved to 2025, or at least another year added. Mr. Schnepf (CA) remarked that in Section 2.21.2.(a) the language should read “equal to or greater than” to align with NIST HB44 language. Mr. Allen (Arizona) was supportive of the changes from Mr. Schnepf. Mr. Willis (New York) rose to oppose this item and believes this item is detrimental to the propane industry. He remarked that they are done by weight and the temperature compensation is an issue with the smaller tanks. Mr. Ramsburg (Maryland) asked the committee to withdraw the item.

Based on testimony during open hearings and reviewing the documents from the regional meetings, the Committee changed the effective date in Section 2.21.2.(b) from January 1, 2023 until January 1, 2024. In Sections 2.21.2. (a), (b) and (c) replaced the words “meter and device” with “metering system.” The Committee concurred with Mr. Schnepf’s recommendation to modify the language in Section 2.21.2.(a) to replace the words “greater than or equal to” with “equal to or greater than”. This item did appear as a Voting Item at the 2021 NCWM Annual Meeting but did not garner enough votes, it was therefore returned to the Committee.

Regional Associations’ Comments:

WWMA 2019 Annual Meeting: The Committee heard comments in support of addressing the underlying issue that resulted in this proposal. Mr. Scott Simmons (CO) recommended an alternative proposal for consideration to require automatic temperature compensation (ATC) for all LPG meters.

1. A non-retroactive date for all new equipment to have ATC.
2. A retroactive date for all equipment to have an ATC retrofit or replacement.

Mr. Clark Cooney (CA) commented that LPG has a very high thermal coefficient of expansion, therefore all LPG meters should be temperature compensated.

The Committee believes this item under consideration is fully developed and recommends it as a Vote.

Several comments were received that designation of this item as Voting provides an incorrect impression that the WWMA supported the item as written, without consideration of additional options for the sale of propane using meters that temperature compensate. The submitter stated that while the item itself does not require further development; an alternate option will be developed to account for the comments received at the WWMA conference to be presented to other regional meetings. The WWMA L&R Committee agreed to change the status of the item from Voting to Developing.

SWMA 2019 Annual Meeting: They considered the two proposals that were submitted by Ms. Michelle Wilson (AZ) on September 30, 2019. The Committee took into consideration proposal number two.

2.21. Liquefied Petroleum Gas. – All liquefied petroleum gas, including, but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot ^[NOTE 7, page 131] of vapor (defined as 1 ft³ at 60 °F [15.6 °C]), or the gallon (defined as 231 in³ at 60 °F [15.6 °C]). ~~All metered sales by the gallon, except those using meters with a maximum rated capacity of 20 gal/min or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.~~

(a) All metered sales by the gallon using a meter with a maximum rated capacity greater than 20 gal/min, shall be accomplished by use of a meter and device that automatically compensates for temperature.

(b) For equipment placed in service on or after January 1, 2023, all metered sales using a meter with a maximum rated capacity of 20 gal/min or less shall be accomplished by use of a meter and device that automatically compensates for temperature.

(c) Effective January 1, 2030, all metered sales shall be accomplished by use of a meter and device that automatically compensates for temperature.

North Carolina would like to have this item be withdrawn because they have a statute that addresses this item, and they will continue with flat sales. The Committee does like the proposal that is presented but believes there are too many variables in the method of sale and enforcement of this by the states. They would like consideration what to do with the sale of portable cylinders. The Committee is recommending this as a Developing item to address the states' concerns.

NEWMA 2019 Interim Meeting: The L&R Chair reviewed the information provided from the previous two regional meetings. Mr. Richard Sutter (Richard Suiter Consulting) commented that the proposal, as written, could be problematic as it pertains to all sizes of devices. The Committee recommends the item stay with the developer for further work and vetting through the regions.

NEWMA 2021 Annual Meeting: Mr. Bruce Swiecicki (National Propane Gas Association [NPGA]), commented in support of this item but would like to extend the timeline in Section 2.21.2(b) from 2023 to 2025 to allow industry the opportunity to comply. Mr. Walt Remmert (PA) asked for clarity as to why the extension was needed. The proposed language states that all devices being put into service is during or after 2023, and questions whether the extension of the date is necessary. After review of the justification to consider extending the timeline for two years, the Committee recommends that this item move forward as stated

2020 Regional Meetings of the WWMA NEWMA, and SWMA: These regions adhered to a condensed agenda due to the COVID pandemic and did not consider this item.

CWMA 2020 Interim Meeting: Mr. Charlie Stutesman (KS) commented that if this requires a temperature compensation meter, Handbook 44 exempts meters with a capacity of 20 gallons per minute or less and wonders if that would create an inconsistency between NIST Handbooks 44 and 130. Ms. Lisa Warfield (NIST OWM) commented that the submitter asked that this item move forward through the regions for consideration. Ms. Warfield further stated NIST believes the language in the two handbooks does not conflict. Mr. Loren Minnich (KS) commented that Handbook 44, Section S.2.8. does not conflict. Mr. Stutesman asked for clarification regarding whether this would force meters without temperature compensation to require them to be installed. Ms. Warfield further commented that the reason this item was developed is to provide consistency for the method of sale. Mr. Ivan Hankins (Iowa) commented that he also wonders if there is a conflict between the handbooks. Mr. Stutesman lastly commented that he believes that NIST Handbook 130 indicates that states shall require temperature compensation, and Handbook 44 indicates that states may, but are not required to have temperature compensation meters, and whether this should be a jurisdictional issue depending on which handbooks are adopted in states. Ms. Warfield reminded members to review the background information on this issue. Mr. Stephen Peter (Wisconsin) asked how if this item is adopted, there should be lead time of possibly 2030 to allow time for compliance. The Committee discussed the implementation date should be five years from the date of adoption. The L&R Committee requested that the NCWM S&T Committee review the implications of passing this item as it relates to requiring temperature compensation on all meters. The Committee believes that the item is fully vetted in terms of its technical content and therefore recommends it become a Voting item.

During the Committee's work session, Ms. Warfield indicated that metric terms are not included in the language and suggests that they be included as highlighted below.

2.21. Liquefied Petroleum Gas. – All liquefied petroleum gas, including, but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the (kilogram) pound, (cubic meter) metered cubic foot ^[NOTE7, page 132] of vapor (defined as 1 ft³ at 60 °F [15.6 °C]), or the (liter) gallon (defined as 231 in³ at 60 °F [15.6 °C]). ~~All metered sales by the gallon, except those using meters with a maximum rated capacity of 20 gal/min or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.~~

CWMA 2021 Annual Meeting: Ms. Warfield commented that we would likely hear additional comments on this item from the LPG industry and they may make a recommended change prior to the NCWM Annual Meeting. She further commented that industry representatives will attend NEWMA and provide comments at their meeting scheduled for May 18, 2021. Mr. Doug Musick (Kansas) asked what the concerns were from the industry. Ms. Warfield said we have not received industry’s final comments but anticipate they will present them in time for the NEWMA 2021 Annual Meeting.

Ms. Butcher (NIST OWM) commented that the requirement for selling LPG based on a 60 °F gallon is already stated in this regulation and applies to all sales; however, misunderstand the application of the requirement that requires some metering systems to automatically compensate for temperature differences and erroneously believe this exempts sales in remaining applications from compensation. Mr. Minnich commented that he was unclear about the language regarding this issue. He indicated he prefers the phrase “metering system” rather than “meter and device.” Ms. Butcher explained the relationship between temperature and metering. Ms. Butcher commented that she understands there may have been questions regarding the threshold of 20 gallons per minute and clarified that rates higher than this were installed on vehicle mounted systems and are likely equipped with temperature compensating systems. Mr. Ivan Hankins supported this item and believed it should move forward. The Committee supports voting status of this item with the editorial change suggested by Mr. Minnich replacing the phrase “meter and device” with “metering system.” The change is editorial because it does not change the intent of the model language.

CWMA Report - MOS-20.5
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Ivan Hankins, Iowa commented that the Western and the Southern regions are recommending this item to be a voting item which allows for temperature compensation on 20 or less gpm meters. Charlie Stutesman, Kansas commented that he believes the 2025 date is a more appropriate date for new meters rather than 2024, and all other devices be switched by 2030. He further commented that he supports getting compensators on the meters, particularly at retail sites where staff may not be properly trained on how to figure the compensated volume. The Committee believes that if this item is passed in 2022, the proposed 2024 date is a sufficient time to implement changes for new meters. The Committee believes this item is fully vetted and ready for voting status.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

MOS-22.5 V Section 2.31.2.1. Labeling of Grade Required. and 2.31.2.2. EPA Labeling Requirements Also Apply.

Source:

National Biodiesel Board (NBB)

Purpose:

To correct Part B. Uniform Regulation for the Method of Sale of Commodities and keep consistent with federal and industry requirements.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

~~2.31.2.1. Labeling of Grade Required. – Biodiesel shall be identified by the grades S15 or S500. Biodiesel blends shall be identified by the grades No. 1-D, No. 2-D, or No. 4-D.~~ Biodiesel and biodiesel blends shall be identified in accordance with both EPA and FTC requirements.

~~2.31.2.2. EPA Labeling Requirements Also Apply. – Retailers and wholesale purchaser consumers of biodiesel blends shall comply with EPA pump labeling requirements for sulfur under 40 CFR 80.570.~~

Previous Action:

N/A

Original Justification:

Sulfur regulations have changed so that ONLY ultra-low sulfur fuels (maximum 15ppm sulfur) are allowed for sale at retail dispensers. S500 biodiesel is no longer allowed to be sold at retail. Likewise, biodiesel blends must meet the ASTM D7467 (B6-B20) specifications. The limits and allowances in D7467 do not include Grades 1-D, 2-D, or 4-D. The reference to 40 CFR 80.570 was only applicable for retail diesel fuels from 6/1/2006 until 11/30/2010.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - MOS-22.5	
Regional recommendation to NCWM on item status:	
<input checked="" type="checkbox"/>	Recommend as a Voting Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Information Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i>
<input type="checkbox"/>	Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i>
<input type="checkbox"/>	Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i>
<input type="checkbox"/>	No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i>	
Randy Jennings representing the National Biodiesel Board explained that the information currently in the handbook is not accurate and is outdated. He further commented that there are no requirements for labeling diesel in Handbook 130, and more work needs to be done when referencing federal regulations in the handbook. Doug Musick, Kansas supports removing the irrelevant information. He has concerns that if there are specific EPA and FTC requirements, the relevant references should be included in the handbook. Mr. Jennings commented that NBB is committed to further work on this section of the handbook. Mr. Musick supports the concept of striking all the language in the section. Charlie Stutesman, Kansas commented that he supports the initial action of striking the inaccurate information, but he would also like to see citation references to EPA and/or FTC. He believes grade information should appear in the Uniform Fuels and Automotive Lubricants Regulation section of the Handbook rather than the Method of Sale section. Mike Harrington, Iowa commented that he supports this item move forward as a voting item, as well as future work in this area. Lisa Warfield, NIST Technical Advisor commented that if the federal regulation is cited, NIST would support the item. Kristy Moore, Growth Energy commented that she is unsure if section 3.1 applies to all fuels, and then subsequent sections are specified by fuel type. She asked for clarity on this item. She further commented that we have these requirements on renewable fuels but not on fossil fuels. Chuck Corr, Iowa Renewable Fuels Association commented that this item as well as other items appearing in the Method of Sale section need further work. Based on comments during open hearings the Committee believes this item is fully developed and ready for voting status.	

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

NET – HANDBOOK 133: CHECKING THE NET CONTENT OF PACKAGED GOODS

NET-20.2 D Section 4.5. Polyethylene Sheeting, Bags and Liners.

Source:

New York State Weights and Measures

Purpose:

Remove antiquated terminology used for test equipment to test the thickness of polyethylene sheeting, bags, and liners.

Item Under Consideration:

Amend Handbook 133 as follows:

4.5. Polyethylene Sheeting, Bags, and Liners

Most polyethylene products are sold by length, width, thickness, area, and net weight. Accordingly, this procedure includes steps to test for each of these measurements.

(Amended 2017)

4.5.1. Test Equipment

- A scale that meets the requirements in Section 2.2. “Measurement Standards and Test Equipment.”
- Steel tapes and rulers. Determine measurements of length to the nearest division of the appropriate tape or ruler.
 - Metric units:

For labeled dimensions 400 mm or less, linear measure: 300 mm in length, 1 mm divisions; or a 1 m ruler with 0.1 mm divisions, overall length tolerance of 0.4 mm.

For labeled dimensions greater than 400 mm, 30 m tape with 1 mm divisions.
 - U.S. customary units:

For labeled dimensions 25 in or less, use a 36 in ruler with $\frac{1}{64}$ in or $\frac{1}{100}$ in divisions and an overall length tolerance of $\frac{1}{64}$ in.

For dimensions greater than 25 in, use a 100 ft tape with $\frac{1}{16}$ in divisions and an overall length tolerance of 0.1 in.
- Deadweight dial micrometer (or equal) equipped with a flat anvil, 6.35 mm or ($\frac{1}{4}$ in) diameter or larger, and ~~a 4.75 mm ($\frac{3}{16}$ in) diameter flat surface on the head of the spindle~~ **head with a diameter between 3.20 mm ($\frac{1}{8}$ in) and 12.70 mm ($\frac{1}{2}$ in).**

Note: Electronic or other instruments that provide equivalent accuracy are also permitted.

- ~~The mass of the probe head (total of anvil, weight 102 g or [3.6 oz], spindle, etc.) must total 113.4 g (4 oz). The pressure exerted by the instrument should not exceed 70 kPa (10 psi).~~
- The anvil and spindle head surfaces should be ground and lapped, parallel to within 0.002 mm (0.0001 in), and should move on an axis perpendicular to their surfaces.

- The dial spindle should be vertical, and the dial should be at least 50.8 mm (2 in) in diameter.
- The dial indicator should be continuously graduated to read directly to 0.002 mm (0.0001 in) and should be capable of making more than one revolution. It must be equipped with a separate indicator to indicate the number of complete revolutions. The dial indicator mechanism should be fully jeweled.
- The frame should be of sufficient rigidity that a load of 1.36 kg (3 lb) applied to the dial housing, exclusive of the weight or spindle presser foot, will not cause a change in indication on the dial of more than 0.02 mm (0.001 in).
- The indicator reading must be repeatable to 0.001 2 mm (0.000 05 in) at zero.
- The micrometer should be operated in an atmosphere free from drafts and fluctuating temperature and should be stabilized at ambient room temperature before use.

Note: Other instruments are commercially available that utilize different methods of measuring thickness. Instruments of this nature are acceptable provided they meet or exceed the precision requirements noted within the latest version of ASTM D6988 “Guide for Determination of Thickness of Plastic Film Test Specimens” and the requirements of the applicable material or product specification or applicable test standards.

- Gage blocks covering the range of thicknesses to be tested should be used to check the accuracy of the micrometer
- T-square

Background/Discussion:

This item has been assigned to the submitter for further development. For more information or to provide comment, please contact:

Mr. Mike Sikula
New York Department of Agriculture and Markets
518-457-3452, mike.sikula@agriculture.ny.gov

This will update the test equipment to allow for the use of other type of instruments to perform the test procedure. In addition, it aligns the test equipment within the latest version of ASTM D6988 “Guide for Determination of Thickness of Plastic Film Test Specimens”.

NCWM 2021 Interim Meeting: Mr. Kurt Floren (Los Angeles Co., CA) had concern with the spindle head having a diameter of 3.20 mm and 12.70 mm, due to the type of product being tested as this may create inconsistencies within the thickness. Mr. Floren would like to see data that justified this range. In addition, there are many other instruments that are available in the marketplace to do testing. Mr. Floren had concerns with this item proceeding as currently written. What is the current industry practice with this type of procedure? The Committee would like the submitter to review the recommendations that came out of the fall regional meetings. The submitter should also address any procedural differences between the current procedure and use of an electronic instrument. The Committee recommends this item as a Developing item. Mr. Kevin Schnepf (California) noted that ASTM D6988 has a maximum pressure of 70 kPa (10 psi) for thinner films and for thicker films, a pressure range between 160 and 185 kPa (23 and 27 psi). Mr. Floren also expressed concerns with the variability in plastics and the striations occur in plastics. The Committees did not have any supporting data or repeatability test and asked that the developer review all the comments within this item by Fall Regional Association Meetings.

NCWM 2021 Annual Meeting: Mr. Willis provided an update that they are planning to do testing to provide data as requested by the Committee and regional associations. Mr. Schnepf further support the development of language and

request that it be harmonized with ASTM D6988 for the thicker densities. The Committee continues to encourage the submitter with developing this item by the 2022 NCWM Interim Meeting.

Regional Associations’ Comments:

WWMA 2019 Annual Meeting: Mr. Kurt Floren (Los Angeles Co., CA) provided modifications to the language to the Committee. The Committee addressed his concerns by modifying the language as it appears below. The WWMA cautions that the ASTM D6988 “Standard Guide for Determination of Thickness of Plastic Film Test Specimens” needs to be researched further to make sure it is applicable. It appears that ASTM D6988 is a Guide and not a specification standard. There is a note within the standard that appears to prohibit the use for this application. The Committee is requiring data from the submitter that changes to the micrometer specifications are justified. Further development of the entire test procedure (not just test equipment) will need to occur for its applicability for the electronic instrument. The Committee recommends this be a Developmental item requiring confirmation of the applicability of the ASTM standard.

4.5. Polyethylene Sheeting, Bags, and Liners

Most polyethylene products are sold by length, width, thickness, area, and net weight. Accordingly, this procedure includes steps to test for each of these measurements.

(Amended 2017)

4.5.1. Test Equipment

- A scale that meets the requirements in Section 2.2. “Measurement Standards and Test Equipment.”
- Steel tapes and rulers. Determine measurements of length to the nearest division of the appropriate tape or ruler.
 - Metric units:

For labeled dimensions 400 mm or less, linear measure: 300 mm in length, 1 mm divisions; or a 1 m ruler with 0.1 mm divisions, overall length tolerance of 0.4 mm.

For labeled dimensions greater than 400 mm, 30 m tape with 1 mm divisions.
 - U.S. customary units:

For labeled dimensions 25 in or less, use a 36 in ruler with 1/64 in or 1/100 in divisions and an overall length tolerance of 1/64 in.

For dimensions greater than 25 in, use a 100 ft tape with 1/16 in divisions and an overall length tolerance of 0.1 in.
- **Thickness Measuring Device (use one of the following)**
 - Deadweight dial micrometer (or equal) equipped with a flat anvil, 6.35 mm or (1/4 in) diameter or larger, and **a 4.75 mm (3/16 in) diameter flat surface on the head of the spindle head with a diameter between 3.20 mm (1/8 in) and 12.70 mm (1/2 in).**

~~Note: Electronic or other instruments that provide equivalent accuracy are also permitted.~~
—The mass of the probe head (total of anvil, weight 102 g or [3.6 oz], spindle, etc.) must total 113.4 g (4 oz). The pressure exerted by the instrument should not exceed 70 kPa (10 psi).

- The anvil and spindle head surfaces should be ground and lapped, parallel to within 0.002 mm (0.0001 in), and should move on an axis perpendicular to their surfaces.
- The dial spindle should be vertical, and the dial should be at least 50.8 mm (2 in) in diameter.
- The dial indicator should be continuously graduated to read directly to 0.002 mm (0.0001 in) and should be capable of making more than one revolution. It must be equipped with a separate indicator to indicate the number of complete revolutions. The dial indicator mechanism should be fully jeweled.
- The frame should be of sufficient rigidity that a load of 1.36 kg (3 lb) applied to the dial housing, exclusive of the weight or spindle presser foot, will not cause a change in indication on the dial of more than 0.02 mm (0.001 in).
- The indicator reading must be repeatable to 0.001 2 mm (0.000 05 in) at zero.
- The micrometer should be operated in an atmosphere free from drafts and fluctuating temperature and should be stabilized at ambient room temperature before use.

~~**Note: Other instruments are commercially available that utilize different methods of measuring thickness. Instruments of this nature are acceptable provided they meet or exceed the precision requirements noted within the latest version of ASTM D6988 “Guide for Determination of Thickness of Plastic Film Test Specimens” and the requirements of the applicable material or product specification or applicable test standards.**~~

- **Electronic Instrument that meet or exceed the precision requirements within the latest version of ASTM D6988 “Guide for Determination of Thickness of Plastic Film Test Specimens” and the requirements of the applicable material or product specification or applicable test standards**

- Gage blocks covering the range of thicknesses to be tested should be used to check the accuracy of the micrometer
- T-square

SWMA 2019 Annual Meeting: The Committee did not hear any comments regarding this item from regulators. It was noted that if you are adding electronic instruments then the test procedure should also address them throughout the test procedure. The SWMA encourages the submitter to develop this proposal.

NEWMA 2021 Annual Meeting: Mr. Jim Willis (NY) commented that his state is looking to provide an update on this item at the Fall Regional meetings, after reaching out to the ASTM D20 Committee and gathering and incorporating additional data for further development. The Committee believes this item should remain a Developing item.

CWMA 2021 Annual Meeting: Ms. Lisa Warfield (NIST OWM) commented that the submitter is hoping to have a revision for review at the NCWM Interim Meeting in 2022. Ms. Warfield further commented that the developer requested any comments or recommendations be provided by the Fall Regional Meetings. CWMA believes this item should remain a developing item until additional data is collected as requested at the NCWM 2021 Interim Meeting.

CWMA Report - NET-20.2
<p>Regional recommendation to NCWM on item status:</p> <p> <input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i> </p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>No comments were heard. The submitter of this item provided additional supporting data. Based on the submission of some data but the need for more, the Committee believes this item should remain on the agenda as a developing item.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

NET-22.2 V 3.X. Volumetric Test Procedure for Viscous and Non-Viscous Liquids by Portable Digital Density Meter.

Source:

Mr. Ronald Hayes (retired)

Purpose:

Allow the use of digital density meters for package checking testing of viscous and non-viscous liquids.

Item Under Consideration:

Amend Handbook 133, Checking the Net Contents of Packaged Goods, as follows:

3.X. Volumetric Test Procedure for Viscous and Non-Viscous Liquids by Portable Digital Density Meter

3.X Scope

Use these procedures to determine the net contents of package goods labeled in fluid volume.

This test method is suitable for measuring the density of homogenous liquids including dairy products such as milk and half and half petroleum products such as fuel, motor oil, transmission fluid and paint thinner, brake fluid, diesel exhaust fluid, automotive coolant, , pulp-free juices, wine, distilled spirits, water, mouth wash, alcohol, syrups, cooking oils, solvents, cleaning supplies, chemicals, as well as other viscous and non-viscous liquids.

This test method shall not be used for liquids with suspended solids such as orange juice with pulp, buttermilk, liquids requiring “shake before use” (paint), or carbonated products (soda, beer, etc.) and all products tested should be free of suspended gas, air, sediment, suspended matter, or substances not approved by the digital density meter manufacturer.

This test method may be used as a substitute for the volumetric flask test procedures or testing viscous fluids that cannot be tested properly by the volumetric headspace procedure due to non-rigid containers such as motor oil and transmission fluids in in oblong plastic containers.

Prior to using the method in official testing, the official's metrological laboratory should perform a comparison between the densities obtained between the HB 133 methods (sections 3.2 and 3.3) and the density meter prior to authorizing the inspector to use it for official enforcement actions.

This test method can be used for prescreening to allow the inspector to use the density from the meter to audit the product to see if there is a possibility that it is short measure and thus saving time and labor.

3.X.1. Test Equipment

- A scale that meets the requirements in Chapter 2, Section 2.2. "Measurement Standards and Test Equipment."

Note: To verify that the scale has adequate resolution for use, it is first necessary to determine the density of the liquid; next verify that the scale division is no larger than MAV/6 for the package size under test. The smallest graduation on the scale must not exceed the weight value for MAV/6.

Example:

Assume the inspector is using a scale with 1 g (0.002 lb) increments to test packages labeled 1 L (33.8 fl oz) that have an MAV of 29 mL (1 fl oz). Also, assume the inspector finds that the weight of 1 L of the liquid is 943 g (2.078 lb).

Density: 1 L = 943 g (2.078 lb)

MAV: 29 mL (1 fl oz)

Convert Density into mL and fl oz:

$943 \text{ g} \div 1000 \text{ mL} = 0.943 \text{ g/mL}$ $(2.078 \text{ lb} \div 33.8 \text{ fl oz} = 0.0614 \text{ lb/fl oz})$

Convert MAV from Volume (mL/fl oz) to Weight:

$29 \text{ mL} \times 0.943 \text{ g/mL} = 27.347 \text{ g}$ $1 \text{ fl oz} \times 0.0614 \text{ lb/fl oz} = 0.064 \text{ lb}$

MAV in Weight/6

$27.347 \text{ g} \div 6 = 4.557 \text{ g}$ $0.064 \div 6 = 0.010 \text{ lb}$

In this example, the 1 g (0.002 lb) scale division is smaller than the MAV/6 value of 4.557 g (0.010 lb) so the scale is suitable for making a density determination.

lb) i

- Air pump, low pressure– an aquarium air pump (to dry out measuring cell)
- Syringe, glass or plastic with Luer fitting (5mL or larger) - Note: Plastic syringe should be free of any lubricating substances
- Stopwatch (optional)
- Distilled or deionized water
- Cleaning agents (See Table 3.X4. Cleaning Agents)
- Waste container
- Barometer (optional), or other device for obtaining the prevailing barometric pressure, with an accuracy of ±3.0 mmHg – Note: smart phones with a barometer application that uses the phone’s pressure sensor, have a typical accuracy of ±0.2 mmHg (comment: barometer is not necessary if prevailing barometric pressure or altitude is known)
- Thermometer for measuring air temperature with a tolerance of ±1°C (2°F)
- Portable digital density meter meeting a minimum requirement of:

<u>Measuring Range</u>	
<u>Density</u>	<u>0 – 3 g/cm³</u>
<u>Temperature</u>	<u>0 – 4 °C (32 – 104 °F)^a</u>
<u>Viscosity</u>	<u>0 – 1000 mPa·s</u>
<u>Accuracy^b</u>	
<u>Density</u>	<u>0.001 g/cm³</u>
<u>Temperature</u>	<u>0.2 °C (0.4 °F)</u>
<u>Repeatability s.d.</u>	
<u>Density</u>	<u>0.0005 g/cm³</u>
<u>Temperature</u>	<u>0.1 °C (0.1 °F)</u>
<u>Sample Volume</u>	<u>2 mL</u>
<u>Sample Temperature</u>	<u>max. 100 °C (212 °F)</u>
<u>footnotes</u>	
^a <u>Filling at higher temperatures possible.</u>	
^b <u>Viscosity < 100 mPa·s, density < g/cm³</u>	

3.X.2 Test Procedure

1. **Follow Section 2.3.1. “Define the Inspection Lot.” Use a “Category A” sampling plan in the inspection. Select a random sample.**
2. **Bring the sample packages and their contents to a temperature between the reference temperature and ambient temperature.**

Note Shaking liquids, such as flavored milk, often entraps air that will affect volume measurements, so use caution when testing these products. Often, less air is entrapped if the package is gently rolled to mix the contents.

3. The instrument must at ambient temperature. Avoid causing condensation within the unit. Condensation could cause instrument malfunction and harm.
4. Validate the digital density meter per the manufacturer's calibration instructions. Instrument shall calibrate within allowable density range (± 0.0005)
5. Ensure the digital density meter is clean prior to testing. Any residual liquid should be drained and the unit should be flushed with a small amount of the sample to be tested.
6. Follow the manufacturer's instructions to select the correct method, when using a meter with built in correction factors, and measure the density of the sample using the built-in pump or syringe. Fill sample gently. If gas or air bubbles are present drain sample and refill. Note: a syringe may be desirable to allow sample specimen to achieve ambient temperature prior to introduction of specimen into testing cell and for viscous specimens.
7. Once digital density meter has stabilized (maintained reading $\pm 0.2^{\circ}\text{C}$ ($\pm 0.5^{\circ}\text{F}$) for 10 seconds) record density and temperature as indicated on instrument.
8. Apply density coefficient of expansion (Alpha) also known as the density correction factor (DCF), to correct to the reference temperature. See Table 3-X1. Reference Temperatures of Liquids. If the Alpha correction is not known then factor can be calculated using the below formula. Note: Some digital density meters may be programmed to automatically apply this correction.

Calculating the Temperature Coefficient Alpha

$$\text{Temperature coefficient Alpha} = \frac{\rho_1 - \rho_2}{T_1 - T_2}$$

ρ_1 density at temperature T_1

ρ_2 density at temperature T_2

T_1 temperature at initial measurement

T_2 temperature at second measurement

Note: If the density correction factor is not known but the volume correction factor is known, the DCF can be calculated from the VCF using the following formula.

Density Temperature factor Alpha = absolute value of Beta X density.

9. Apply viscosity correction if viscosity > 85 centipoise at 21°C (70°F) by adding the value in Table 3.X. Density Measurement to your density measurement. After this correction, this value is the density of the substance in Vacuo at the prescribed reference temperature.

Note: Some instruments may be pre-programmed to automatically apply. See Table 3.X. Approximate Viscosities of Common Materials for viscosity correction.

10. Apply the apparent density correction by multiplying the density by 0.999 or for higher accuracy, by multiplying the density by the Apparent Mass Factor from Table X.2 The table was derived from the following procedure and may be used in lieu of values in the table: Calculate the Conventional Mass using the formula below to correct density to apparent density. to correct density to apparent density of product at prevailing atmospheric pressure or for higher accuracy calculate apparent density by using the following formula (terms as defined in NIST Standard Operating Procedure SOP 2 “Recommended Standard Operating Procedure for Applying Air Buoyancy Corrections. After application of this factor, the new value is density of the substance in air <https://www.nist.gov/pml/weights-and-measures/laboratory-metrology/standard-operating-procedures>

3.2.3. Calculate the Conventional Mass⁶ of S_c , CM_{S_c} .

$$CM_{S_c} = \frac{M_{S_c} \left(1 - \frac{\rho_n}{\rho_{S_c}} \right)}{\left(1 - \frac{\rho_n}{8.0} \right)}$$

11. Drain the instrument and repeat Steps 6–10 on a second specimen of the same package for verification of first measurement.
12. Compare the two readings, they must agree within 0.0003 g/cc. Calculate the average density of the two specimens from the sample. If the difference of two readings is greater than 0.0003 g/cc, discard results and repeat testing of sample. Air or undissolved gas will cause erroneous measurement errors. The user of the test method shall always visually inspect for undissolved gas in the measurement tube for a valid test.
13. Repeat testing for the second (or subsequent) package(s) of the lot.
14. Calculate the average of sample 1 and sample 2; the two results must agree within 0.0003 g/cc. If the difference between the densities of the two packages exceeds 0.0003 g/cc, use the volumetric procedure in Section 3.3. “Volumetric Test Procedure for Non-Viscous Liquids.” for non-viscous liquids.
15. Convert the unit of the average density back to the unit of measure specified on the package label i.e. pounds/fluid ounce, etc.
16. The digital density meter must be stored clean. After final use of the day or extended period of time, the instrument should be drained and cleaned following the manufacturer’s recommended cleaning procedures. Two cleaning agents should be used. The first cleaning liquid removes sample residue and the second cleaning liquid removes the first cleaning liquid. See Table 3.X. Cleaning Agents for examples of cleaning agents recommended by a particular digital density meter manufacturer.
- NOTE: If the unit will be immediately used to measure another sample of similar composition, the unit may be drained and flushed with new sample three times before next analysis.
17. Connect digital density meter to a low-pressure air source, such as an aquarium air pump, to dry the unit’s measurement cell.

3.X.3. Evaluation of Results

Follow the procedures in Section 2.3.7. "Evaluate for Compliance" to determine lot conformance.

Table X.1			
Notice: This Table is currently under review. Do not use without validation.			
Product	alpha/°C	Typical Density at 20°C, g/cm³	Reference Temperature, °C
Petroleum Products			
Benzene	0.00125	0.989	15.56
n-Heptane	0.00124	0.684	15.56
Gasoline	0.00095	0.74	15.56
Kerosene, jet fuel	0.00099	0.81	15.56
Oil (unused engine oil)	0.0007		15.56
Paint Thinner			15.56
Paraffin oil	0.000764		15.56
n-Pentane	0.00158		15.56
Toluene	0.00108		15.56
Generalized Petroleum Products (ASTM D1250 Table 54B)			
Distilled Spirits			15.56
Other Liquids and Wine			
Acetic acid	0.0011		20
Acetone	0.00143	0.799	20
Alcohol, ethyl (ethanol)	0.00109	0.789	20
Alcohol, methyl	0.00149	0.792	20
Ammonia	0.00245		20
Aniline	0.00085	1.022	20
Ether	0.0016		20
Ethyl acetate	0.00138		20
Ethylene glycol	0.00057	1.115	20
Isobutyl alcohol	0.00094		20
Glycerin (glycerol)	0.0005	1.261	20
Olive oil	0.0007		20

Sulfuric acid, concentrated	0.00055		20
Turpentine	0.001		20
Water	0.00018	0.9982	20
Diesel Exhaust Fluid	0.00022	1.08805	20
Dairy Products	alpha/°C	Typical Density at 4°C, kg/L	Reference Temperature, °C
Homogenized milk	0.00025	1.033	4
Skim milk, pkg	0.00019	1.036	4
Fortified skim	0.00019	1.041	4
Half and half	0.00044	1.027	4
Half and half, fort.	0.00044	1.031	4
Light cream	0.00056	1.021	4
Heavy cream	0.00088	1.008	4

Table X.0. Density Measurement		
Calculate the density of air at the temperature of test		
using the following equation:		
$\rho_{\text{air, g/mL}} = 0.001293[273.15/T][P/760]$		
where:		
T = temperature, K, and		
P = barometric pressure, torr.		
<u>°C</u>	<u>mmHg</u>	<u>d_{air}, g/mL</u>
<u>15.56</u>	<u>760</u>	<u>0.001223314</u>

Table X.2. Approximate Viscosities of Common Materials		
<u>Material</u>	<u>Viscosity in Centipoise</u>	<u>Correction</u>
<u>Water</u>	<u>1 cps</u>	
<u>Milk</u>	<u>3 cps</u>	
<u>SAE 10 Motor Oil</u>	<u>85–140 cps</u>	<u>0.0003</u>
<u>SAE 20 Motor Oil</u>	<u>140–420 cps</u>	<u>0.0006</u>
<u>SAE 30 Motor Oil</u>	<u>420–650 cps</u>	<u>0.0007</u>
<u>SAE 40 Motor Oil</u>	<u>650–900 cps</u>	<u>0.0007</u>

<u>Castrol Oil</u>	<u>1,000 cps</u>	<u>0.0008</u>
<u>Karo Syrup</u>	<u>5,000 cps</u>	<u>0.0008</u>
<u>Honey</u>	<u>10,000 cps</u>	<u>0.00085</u>

Elevation, ft	sea level	1500	3000	4500	6000
Barometer, mmHg	760	720	680	640	600
density, g/cc	Apparent Mass Factor				
0.500	0.9977	0.9979	0.9980	0.9981	0.9982
0.600	0.9981	0.9982	0.9983	0.9984	0.9985
0.700	0.9984	0.9985	0.9986	0.9987	0.9988
0.800	0.9986	0.9987	0.9988	0.9989	0.9989
0.900	0.9988	0.9989	0.9989	0.9990	0.9991
1.000	0.9989	0.9990	0.9991	0.9991	0.9992
1.100	0.9991	0.9991	0.9992	0.9992	0.9993
1.200	0.9991	0.9992	0.9992	0.9993	0.9993
1.300	0.9992	0.9993	0.9993	0.9993	0.9994
1.400	0.9993	0.9993	0.9994	0.9994	0.9994
1.500	0.9993	0.9994	0.9994	0.9994	0.9995

Elevation or prevailing barometric pressure at the location of measurement.

<u>Commodity</u>	<u>Cleaning Liquid 1</u>	<u>Cleaning Liquid 2</u>
<u>Petroleum products</u>	<u>Toluene, petroleum naphtha, petroleum ether, n-nonane, cyclohexane</u>	<u>Ethanol</u>
<u>Battery acid</u>	<u>Tap water</u>	<u>Ultra-pure (bi-distilled or deionized) water</u>
<u>Liquid soap & detergent, shampoo</u>	<u>Tap water</u>	<u>Ultra-pure (bi-distilled or deionized) water</u>

<u>Salad dressing, mayonnaise</u>	<u>Petroleum naphtha, dish washing agent in water</u>	<u>Ethanol</u>
<u>Sun tan lotion</u>	<u>Tap water</u>	<u>Ethanol</u>
<u>Spirits</u>	<u>Tap water</u>	<u>Ultra-pure (bi-distilled or deionized) water</u>
<u>Grape juice, syrup</u>	<u>Warm tap water</u>	<u>Ultra-pure (bi-distilled or deionized) water</u>
<u>Milk*</u>	<u>Tap water, enzymatic lab cleaner</u>	<u>Ultra-pure (bi-distilled or deionized) water</u>

***Do not introduce ethanol or other alcohols into instrument without first flushing all milk products from instruments.**

Previous Action:

N/A

Original Justification:

- Current test procedures are slow and awkward due to the need of using borosilicate glassware for package checking. Digital density meters are fast, use small samples size (2 ml) and have built in thermometers.
- Fast and accurate.
- Using digital density meters equipped with built-in API density tables will not require the cooling samples to 60 F.
- No need to “wet down” volumetric flasks before each measurement
- Most non-food products may be recovered without contamination.
- Only small sample size (2 ml) of the product is needed for testing.
- No need for partial immersion thermometer or volumetric flasks.
- Current method in “Section 3.4 Volumetric Test Procedures for Viscous Fluids – Headspace” does not work for plastic oblong bottles often used for motor oil.
- Eliminates the entrapment of air in testing viscous fluids (i.e. motor oil, DEF, antifreeze, syrups, etc.)

A NIST intern had done an investigation on the use portable density meters and NIST published a report in 2006 based only on that intern’s study. The study is incomplete as the report references data in the appendix which does not exist. Therefore, the information is questionable and not in step with available technology.

Referenced Documents

- ASTM D7777 Standard Test Method for Density, Relative Density, or API Gravity of Liquid Petroleum by Portable Digital Density Meter www.astm.org
- ASTM D4052 Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter www.astm.org
- ASTM D5931 Test Method for Density and Relative Density of Engine Coolant Concentrates and Aqueous Engine Coolants by Digital Density Meter www.astm.org
- OIML Guide G 14 Density measurement [g014-e11.pdf \(oiml.org\)](http://g014-e11.pdf(oiml.org))

- (71) Manual to Digital Density Measurement - YouTube

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - NET-22.2	
Regional recommendation to NCWM on item status:	
<input checked="" type="checkbox"/>	Recommend as a Voting Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Information Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i>
<input type="checkbox"/>	Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i>
<input type="checkbox"/>	Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i>
<input type="checkbox"/>	No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>

<p>Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)</p> <p>Ron Hayes, retired regulator from Missouri who is the original submitter commented that he rewrote the method from its original version, and table X.1 is currently under review. He also mentioned the ASTM test methods that have been in the marketplace for several years, and he believes with the changes in table X.1 and a few additional changes, he believes the item will be ready for voting status. He is asking for volunteers to collect data using this instrument. Lisa Warfield, NIST Technical Advisor commented that the NIST analysis captures areas for improvement and supports the development of this item as an audit procedure. Mike Harrington, Iowa commented that he supports this as a voting item rather than be assigned to a task group to collect data. The Committee believes the item is fully developed by the original submitter and supports further testing by states and recommends voting status.</p>
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Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

ITEM BLOCK 3 (B3) CANNABIS

- B3: PAL-22.1 2.XX. Cannabis and Cannabis-Containing Products.
- B3: PAL-22.2 10.XX. Cannabis and Cannabis-Containing Products
- B3: MOS-22.2 1.XX. Cannabis and Cannabis-Containing Products and 2.XX. Cannabis and Cannabis-Containing Products.
- B3: NET-22.1. Section 1.XX. Cannabis and Cannabis-Containing Products and 2.XX. Cannabis and Cannabis-Containing Products

B3: PAL-22.1 V Section XX. Cannabis and Cannabis-Containing Products.

Source:
NCWM Cannabis Task Group

Purpose:
Establish a clear definition of *Cannabis* and *Cannabis*-containing products for use in Handbook 130 Uniform Packaging and Labeling Requirements.

Item Under Consideration:
Amend Handbook 130, Uniform Packaging and Labeling Regulation, as follows:

2.XX. Cannabis and Cannabis-Containing Products – Cannabis is a genus of flowering plants in the family Cannabaceae, of which Cannabis sativa is a species. This section includes products containing more than 0.3% Total Delta-9 THC (also known as cannabis, Marijuana or Marihuana) and products containing 0.3% or less Total Delta-9 THC (also known as Hemp).
(Added 20XX)

Original Justification:
Since *Cannabis* and *Cannabis*-containing products were first legalized by some states, the industry has undergone an unprecedented expansion. Even though these products haven’t received Federal approval at this time, more and more states have supported *Cannabis* and *Cannabis*-containing products for medicinal or adult-use under their own laws. This has resulted in boutique markets developing across the country with restrictive state boundaries for lack of clarity and uniformity in commercialization of these products

Cannabis and *Cannabis*-containing products are unique in many aspects; they have a niche as medicine, have resulted in the development of adult use markets, and have an incredible array of different manufacturing and industrial applications. Some of these products contain controlled substances which presents a special concern for the safety and welfare of consumers if misused or mishandled. Further, they are subject to strict regulations by multiple

government agencies. *Cannabis* and *Cannabis*-containing products and applications range from non-food to food products for human and animal consumption through inhalation, ingestion, and/or topical or dermal application. They can be used as ingredients in other commodities, changing in most cases the product identity to *Cannabis* and *Cannabis*-containing products. Some *Cannabis* and *Cannabis*-containing products are very susceptible to environmental conditions easily losing or gaining moisture with consequences impacting net quantity, degradation of active cannabinoids, and/or microbial proliferation depending on the situation. These are just some of the reasons there are many concerns and uncertainty surrounding the method of sale and commercialization of *Cannabis* and *Cannabis*-containing products.

Many states have already, or are in the planning stages of, codified packaging and labeling regulations that may differ from those proposed here. They may change yet again once the federal government establishes regulations for *Cannabis* and *Cannabis*-containing products. However, unifying the packaging and labeling requirements nationally through this proposal will eliminate the boutique markets currently developing. Much of industry has expressed the desire for uniformity and this will align with their needs in this regard

The submitter requested that this be a Voting Item in 2022.

B3: PAL-22.2 V Section 10.XX. Cannabis and Cannabis-Containing Products.

Source:

NCWM Cannabis Task Group

Purpose:

Establish uniform packaging and labeling requirements for *Cannabis* and *Cannabis*-containing products.

Item Under Consideration:

Amend Handbook 130, Uniform Packaging and Labeling Regulation, as follows:

10.XX. Cannabis and Cannabis-Containing Products- Any Cannabis or Cannabis-containing products, with the exception of commodities listed under Section 10.9 Textile Products, Threads and Yarns and other non-food products not intended for human or animal application, shall bear on the outside of the package the following:

(a) The statement “Contains Cannabis” on the principal display panel of the package.

(b) The statement “Contains more than 0.3% Total Delta-9 THC” or “Contains 0.3% Total Delta-9 THC or less”.

(c) A declaration of the number of milligrams of each marketed cannabinoid per serving.

(Added 20XX)

Original Justification:

Since *Cannabis* and *Cannabis*-containing products were first legalized by some states, the industry has undergone an unprecedented expansion. Even though these products haven't received Federal approval at this time, more and more states have supported *Cannabis* and *Cannabis*-containing products for medicinal or adult-use under their own laws. This has resulted in boutique markets developing across the country with restrictive state boundaries for lack of clarity and uniformity in commercialization of these products

Cannabis and *Cannabis*-containing products are unique in many aspects; they have a niche as medicine, have resulted in the development of adult use markets, and have an incredible array of different manufacturing and industrial applications. Some of these products contain controlled substances which presents a special concern for the safety and welfare of consumers if misused or mishandled. Further, they are subject to strict regulations by multiple government agencies. *Cannabis* and *Cannabis*-containing products and applications range from non-food to food products for human and animal consumption through inhalation, ingestion, and/or topical or dermal application. They can be used as ingredients in other commodities, changing in most cases the product identity to *Cannabis* and *Cannabis*-containing products. Some *Cannabis* and *Cannabis*-containing products are very susceptible to

environmental conditions easily losing or gaining moisture with consequences impacting net quantity, degradation of active cannabinoids, and/or microbial proliferation depending on the situation. These are just some of the reasons there are many concerns and uncertainty surrounding the method of sale and commercialization of *Cannabis* and *Cannabis*-containing products.

Since *Cannabis* is being introduced as an ingredient into many commodities, having a statement on the principal display panel will allow consumers to be informed as to its contents. The amount and type of cannabinoids are a deciding factor to consumers when purchasing *Cannabis* and *Cannabis*-containing products. This would also provide regulators with the information necessary to ensure consumers are not being defrauded as these products carry a hefty price tag. A declaration of marketed cannabinoids and their respective concentration will allow consumers to compare like products for value comparison. Both requirements will also act as a safety mechanism to alert consumers of the contents and aid them in selecting the desired product.

Many states have already, or are in the planning stages of, codified packaging and labeling regulations that may differ from those proposed here. They may change yet again once the federal government establishes regulations for *Cannabis* and *Cannabis*-containing products. However, unifying the packaging and labeling requirements nationally through this proposal will eliminate the boutique markets currently developing. Much of industry has expressed the desire for uniformity and this will align with their needs in this regard

The submitter requested that this be a Voting Item in 2022.

B3: MOS-22.2 V Section 1.XX. Cannabis and Cannabis-Containing Products and 2.XX. Cannabis and Cannabis-Containing Products.

Source:

NCWM Cannabis Task Group

Purpose:

Create a new section in the Uniform Regulation for the Method of Sale of Commodities in Handbook 130 for *Cannabis* and *Cannabis*-Containing Products. Given the nature of these products, they need to be included in both, the Food and Non-Food sections of this regulation.

Item Under Consideration:

Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

1.XX. Cannabis and Cannabis-Containing Products – Cannabis is a genus of flowering plants in the family Cannabaceae, of which Cannabis sativa is a species. This section includes products containing more than 0.3% Total Delta-9 THC (also known as cannabis, Marijuana or Marihuana) and products containing 0.3% or less Total Delta-9 THC (also known as Hemp).

1.XX.X. Unit

- (a) **Volume – Products offered for sale in liquid form shall be sold by volume. (e.g. oils, concentrates, soft drinks).**
- (b) **Weight- Products offered for sale in non-liquid form shall be sold by weight. (e.g. candy, baked goods, flower). These products may also have a supplemental declaration of count or measure.**

1.XX.X.– Sale from Bulk

- (a) **When sold from bulk, all sales shall be on the basis of net weight or net quantity.**

(b) When liquids are offered for sale from bulk, the reference temperature for measurement shall be 20 °C (68 °F). Products shall be delivered at a temperature within ± 2 °C (5 °F). Artificially heating liquids to temperatures higher than the specified limits is prohibited.

1.XX.X. Water Activity-When unprocessed *Cannabis* is sold or ownership transferred, the water activity shall be 0.6 +/- 0.05.

And

Section 2. Non-Food Products.

2XX. *Cannabis* and *Cannabis*-Containing Products – *Cannabis* is a genus of flowering plants in the family Cannabaceae, of which *Cannabis sativa* is a species. This section includes products containing more than 0.3% Total Delta-9 THC (also known as cannabis, Marijuana or Marihuana) and products containing 0.3% or less Total Delta-9 THC (also known as Hemp).

2.XX.X. Unit

- (a) **Volume – Products offered for sale in liquid form shall be sold by volume. (e.g. topical oils, lotions, cremes).**
- (b) **Weight- Products offered for sale in non-liquid form shall be sold by weight. (e.g. balms, cigarettes, flower). These products may also have a supplemental declaration of count or measure.**

2.XX.X.– Sale from Bulk

(a) When sold from bulk, all sales shall be on the basis of net weight or net quantity.

(b) When liquids are offered for sale from bulk, the reference temperature for measurement shall be 20 °C (68 °F). Products shall be delivered at a temperature within ± 2 °C (5 °F). Artificially heating liquids to temperatures higher than the specified limits is prohibited.

2.XX.X. Water Activity-When unprocessed *Cannabis* is sold or ownership transferred, the water activity shall be 0.6 +/- 0.05.

Original Justification:

This proposal was drafted by the Method of Sale Focus Group within the NCWM Cannabis Task Group.

The ASTM International D37 Cannabis Committee has more than 900 members, the vast majority of which are industry stakeholders. The first two D37 standards passed through the consensus process related to water activity, one of which used all available data to establish an ideal range of 0.55 to 0.65 for *Cannabis* plant material. The proposal to the Method of Sale herein includes a water activity of 0.60 +/- 0.05. While industry has indicated they will reiterate their support for this water activity standard through the NCWM process it is important for the Committee and Membership to be made aware that approximately 900 industry members have already weighed in on and given their consensus support to this standard. Since *Cannabis* and *Cannabis*-Containing products were first legalized by some states, the industry has undergone an unprecedented expansion. Even though these products haven't received Federal approval at this time, more and more states have supported *Cannabis* and *Cannabis*-Containing products for medicinal or recreational use under their own laws. This has resulted in boutique markets developing across the country with restrictive state boundaries for lack of clarity and uniformity in commercialization of these products.

Cannabis and *Cannabis*-Containing products are unique in many aspects; they have a niche as medicine, have resulted in the development of adult use markets, and have an incredible array of different manufacturing and industrial applications. Some of these products contain controlled substances which presents a special concern for the safety and welfare of consumers if misused or mishandled. Further, they are subject to strict regulations by multiple

government agencies. *Cannabis* and *Cannabis*-Containing products and applications range from non-food to food products for human and animal consumption through inhalation, ingestion, and/or topical or dermal application. They can be used as ingredients in other commodities, changing in most cases the product identity to *Cannabis* and *Cannabis*-Containing products. Some *Cannabis* and *Cannabis*-Containing products are very susceptible to environmental conditions easily losing or gaining moisture with consequences impacting net quantity, degradation of active cannabinoids, and/or microbial proliferation depending on the situation. These are just some of the reasons there are many concerns and uncertainty surrounding the method of sale and commercialization of *Cannabis* and *Cannabis*-Containing products.

As a new and rapidly developing industry and given the level of uncertainty and lack of uniformity, *Cannabis* and *Cannabis*-Containing products need a clear and consistent method of sale to provide equity and fairness in the marketplace. Uniformity throughout the method of sale of *Cannabis* and *Cannabis*-Containing products would harmonize regulations across states so these products are not limited by their borders. Further, this would ensure clear and fair competition in the marketplace and provide accurate quantity information for consumers to make informed price and quantity comparisons.

Cannabis has proven to be susceptible to environmental changes, a source of controlled substances, of a high dollar value, and a safety risk for consumers if misused or mishandled. As a result, *Cannabis* and *Cannabis* products require a water activity standard that shall be maintained throughout the entire distribution process from extraction to retail sale.

Water activity is a measure of “free” water available in the plant material to fuel microorganism growth. It is reported on a scale from 0 to 1. The optimal water activity range for *Cannabis* has been determined through scientific studies to be 0.55-0.65 and correlates to an environment that is least conducive to the growth of destructive and harmful microorganisms (e.g., molds). If *Cannabis* was to be sold with as little water content as possible the product would not remain viable (i.e., loss or destruction of desired components, such as cannabinoids and terpenes) for as long and could subject the public to increased health and safety concerns. It would not be feasible to have a moisture allowance close to zero but a product viability and safety moisture content within the optimal water activity range. A water activity between 0.55 and 0.65 in *Cannabis* typically correlates to a moisture content of 10-12%. (See attached Colorado MED report showing 14% of all flowers failed initial mold/yeast testing before being allowed on the market)

On the *Cannabis* cultivation side, recall that *Cannabis* flower is one of the most valuable materials in the US after precious metals or gems. Between the highest safe water activity (0.65) and the lowest possible water activity (0.04), *Cannabis* flower can fluctuate about 5% in weight. This means that a jurisdiction not having the ability to test water activity through the supply chain stays exposed to bad actors who could manipulate water activity at key points to divert about 5% of any harvest in a way that will completely evade every track and trace system. In a world where oversight agencies are concerned about tracking every gram, leaving thousands of pounds at risk of diversion and the related tax loss to the much more lucrative black market is a hole that needs to be plugged.

In the retail *Cannabis* trade, Insufficient attention and guidance is given to moisture migration in or out of some *Cannabis* packaging and as a result, the contents of some *Cannabis* flower packaging have been found to be underweight, resulting in the patient/consumer paying for weight that they are not receiving. For instance, underweight complaints are the #1 consumer complaint in Oregon. For the fairness and safety of *Cannabis* consumers, a 3% +/- weight variance Containing on enforcement of acceptable moisture range needs to be established. As has been learned in other industries in which W&M has jurisdiction, if something can get out of a retail package during distribution, it can also get in. The ability to test packaged *Cannabis*-Containing products at retail for water activity becomes a safety and equity concern.

Solution: ASTM D8197-20 (1) establishes the ideal moisture range for *Cannabis* flower in terms of water activity of 0.60 +/- 0.05. (Exclusive free access to that and another water activity standard can be accessed at <https://www.astm.org/NCWM.htm> and free access to an ASTM water activity eLearning course can be accessed by reaching out to Charlie@CPRSquaredinc.com). This correlates to a moisture content of 10-12 %, which narrows the range of weight variation that must be addressed in dealing with moisture loss.

More than 800 ASTM D37 members concluded that the ideal range for cannabis and hemp flower is 0.55-0.65 (the equivalent to 55-65% Relative Humidity). This was affirmed by the US Pharmacopeia's Expert Cannabis Panel in their Cannabis Paper (2) to mitigate mold growth and maintain the quality attributes.

Consumers/patients buying *Cannabis* products are looking for a desired effect. Those effects are in part determined by the presence of terpenes, which have different scents and provide various therapeutic effects. The presence of these terpenes is diminished as the plant dries and the effects the patient/consumer is expecting are also diminished from what is shown on the label (terpene testing). The US Pharmacopeia has determined the same water activity of 0.60 +/- 0.05 to be ideal for maintaining these quality attributes (e.g., cannabinoid and terpene content) of *Cannabis* flower (attached).

The submitter mentioned the following possible opposing arguments:

- Patients and Consumers don't want to buy water when purchasing *Cannabis*. When it comes to *Cannabis*, they actually want to buy the right amount of water. The right amount of water (or moisture) helps safeguard the quality and integrity of the *Cannabis* components consumers are purchasing. These active components would degrade in overdried plant material. It could also be argued that by providing a constant moisture content through establishment of a water activity standard for the proper sale of unprocessed *Cannabis* there is a measure of ensuring proper quantity during purchase.
- W&M doesn't regulate quality. To the extent establishing an acceptable water activity range is monitoring quality, this is a positive by-product of monitoring equitable transactions, promoting health and safety and preventing diversion. Oversight of motor fuels is analogous in the sense that the attributes of motor fuel are a function of quality and samples are sent to a lab for testing these attributes.
- Equipment cost. The additional cost of water activity meter(s) should not be prohibitive. It could be easily offset by the revenue that would be saved by preventing over drying and diversion and/or by fees collected. This could be accomplished by random testing of *Cannabis* flower throughout the manufacturing and distributions processes. It should also be noted that setting a water activity standard in the MOS does not establish testing requirements nor frequency of testing requirements.
- Illegal activity. Not every state has legalized the sale and distribution of *Cannabis*, whether it contains more or less than 0.3 % THC. However, there are many states (and federal agencies) that have legalized the sale of *Cannabis* in some form or fashion or another. There are strong indication that federal and other state agencies are working to establish requirements for the sale of *Cannabis* and *Cannabis*-products.
- Some have expressed concern over this water activity applying to *Cannabis*-containing products, which resulted from confusion. The water activity proposed herein would not apply to *Cannabis*-containing products, rather it would only apply to *Cannabis* plant material. Traditional water activity levels applied to food products would not be altered or affected by this proposal.

The submitter requested that this be a Voting Item in 2022.

B3: NET-22.1 V Section 1.XX. Cannabis and Cannabis-Containing Products and 2.XX. Cannabis and Cannabis-Containing Products.

Source:

NCWM Cannabis Task Group

Purpose:

Establish an acceptable Net Weight allowance for *Cannabis*, which is related to the MOS Form 15 related to water activity and the Packaging and Labeling Form 15 Sections 2 and 10.

Item Under Consideration:

Amend Handbook 133, Checking the Net Contents of Packaged Goods, as follows:

1.2.6. Deviations Caused by Moisture Loss or Gain

Deviations from the net quantity of contents caused by the loss or gain of moisture from the package are permitted when they are caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure. According to regulations adopted by the U.S. Environmental Protection Agency, no moisture loss is recognized on pesticides. (see Code of Federal Regulations 40 CFR 156.10.)

1.2.6.1. Applying a Moisture Allowance

Some packaged products may lose or gain moisture and, therefore, lose or gain weight or volume after packaging. The amount of moisture loss depends upon the nature of the product, the packaging material, the length of time it is in distribution, environmental conditions, and other factors. Moisture loss may occur even when manufacturers follow good distribution practices. Loss of weight “due to exposure” may include solvent evaporation, not just loss of water. For loss or gain of moisture, the moisture allowances may be applied before or after the package errors are determined.

To apply an allowance before determining package errors, adjust the Nominal Gross Weight (see Section 2.3.6. “Determine Nominal Gross Weight and Package Errors”), so the package errors are increased by an amount equal to the moisture allowance. This approach is used to account for moisture loss in both the average and individual package errors.

It is also permissible to apply the moisture allowances after individual package errors and average errors are determined.

Example:

A sample of a product that could be subject to moisture loss might fail because the average error is minus or the error in several of the sample packages are found to be unreasonable errors (i.e., the package error is greater than the Maximum Allowable Variation (MAV) permitted for the package’s labeled quantity).

You may apply a moisture allowance after determining the package errors by adding the allowance to the Sample Error Limit (SEL) and then, comparing the average error to the SEL to determine compliance. The moisture allowance must be added to the MAV before evaluating sample errors to identify unreasonable minus errors.

(Amended 2010)

This handbook provides “moisture allowances” for some meat and poultry products, flour, pasta, **Cannabis (this only includes plant material but does not include products containing Cannabis)** and dry pet food. (see Chapter 2, Table 2-3. “Moisture Allowances”) These allowances are based on the premise that when the average net weight of a sample is found to be less than the labeled weight, but not by an amount that exceeds the allowable limit, either the lot is declared to be within the moisture allowance or more information must be collected before deciding lot compliance or noncompliance.

Test procedures for flour, some meat, and poultry are based on the concept of a “moisture allowance” also known as a “gray area” or “no decision” area (see Section 2.3.8. “Moisture Allowances”). When the average net weight of a sample is found to be less than the labeled weight, but not more than the boundary of the “gray area,” the lot is said to be in the “gray” or “no decision” area. The gray area is not a tolerance. More information must be collected before lot compliance or noncompliance can be decided. Appropriate enforcement should be taken on packages found short weight and outside of the “moisture allowance” or “gray area.”

(Amended 2002)

...Table 2-3. Moisture Allowances		
Verifying the labeled net weight of packages of:	Moisture Allowance is:	Notes
Flour	3 %	
Dry pet food	3 %	Dry pet food means all extruded dog and cat foods and baked treats packaged in Kraft paper bags and/or cardboard boxes with a moisture content of 13 % or less at time of pack.
Pasta products	3 %	Pasta products means all macaroni, noodle, and like products packaged in kraft paper bags, paperboard cartons, and/or flexible plastic bags with a moisture content of 13 % or less at the time of pack.
Borax	see Section 2.4. Borax	
<u>Cannabis</u>	<u>3 %</u>	<u>Cannabis means plant material only, and not products containing Cannabis, whether containing more than 0.3% Total Delta-9 THC (also known as cannabis, Marijuana or Marihuana) or containing 0.3% or less Total Delta-9 THC (also known as Hemp).</u>
Wet Tare Only¹		
Fresh poultry	3 %	Fresh poultry is defined as poultry above a temperature of – 3 °C (26 °F) that yields or gives when pushed with the thumb.
Franks or hot dogs	2.5 %	
Bacon, fresh sausage, and luncheon meats	0 %	For packages of bacon, fresh sausage, and luncheon meats, there is no moisture allowance if there is no free-flowing liquid or absorbent material in contact with the product and the package is cleaned of clinging material. Luncheon meats are any cooked sausage product, loaves, jellied products, cured products, and any sliced sandwich-style meat. This does not include whole hams, briskets, roasts, turkeys, or chickens requiring further preparation to be made into ready-to-eat sliced product. When there is no free-flowing liquid inside the package and there are no absorbent materials in contact with the product, Wet Tare and Used Dried Tare are equivalent.
<p>¹Wet tare procedures must not be used to verify the labeled net weight of packages of meat and poultry packed at an official United States Department of Agriculture (USDA) facility and bearing a USDA seal of inspection. The Food Safety and Inspection Service (FSIS) adopted specific sections of the 2005 4th edition of NIST Handbook 133 by reference in 2008 but not the “Wet Tare” method for determining net weight compliance. FSIS considers the free-flowing liquids in packages of meat and poultry products, including single-ingredient, raw poultry products, to be integral components of these products (see Federal Register, September 9, 2008 [Volume 73, Number 175] [Final Rule – pages 52189-52193]).</p>		

Original Justification:

Since *Cannabis* and *Cannabis*-containing products were first legalized by various states, the industry has undergone an unprecedented expansion. Even though these products haven't received Federal approval at this time, more and more states have supported *Cannabis* and *Cannabis*-containing products for medicinal or adult use under their own laws. This has resulted in boutique markets developing across the country with restrictive state boundaries for lack of clarity and uniformity in commercialization of these products.

Cannabis and *Cannabis*-containing products are unique in many aspects; they have a niche as medicine, have resulted in the development of adult use markets, and have an incredible array of different manufacturing and industrial applications. Some of these products contain controlled substances which presents a special concern for the safety and welfare of consumers if misused or mishandled. Further, they are subject to strict regulations by multiple government agencies. *Cannabis* and *Cannabis*-containing products and applications range from non-food to food products for human and animal consumption through inhalation, ingestion, and/or topical or dermal application. They can be used as ingredients in other commodities, changing in most cases the product identity to *Cannabis* products. Some *Cannabis* is very susceptible to environmental conditions easily losing or gaining moisture with consequences impacting net quantity, degradation of active cannabinoids, and/or microbial proliferation depending on the situation. These are just some of the reasons there are many concerns and uncertainty surrounding the moisture allowance of *Cannabis*.

In the retail *Cannabis* trade, insufficient attention and guidance is given to moisture migration in or out of some *Cannabis* packaging and as a result, the contents of some *Cannabis* flower packaging have been found to be underweight, resulting in the patient/consumer paying for weight that they are not receiving. For instance, underweight complaints are the #1 consumer complaint in Oregon. See attached table for data from multiple stores of four brands and the incidence of underweight contents. **Preview: If you were shopping any one of 3 stores of a popular brand you'd have a 71% chance of buying a supposedly 1.75g package that is 21.6% underweight, meaning you have a 71% chance of being ripped off by \$5 (assuming a \$10/g price). The lowest incidence of underweight? 54%. The lowest percent underweight? 2.75%.**

For the fairness and safety of *Cannabis* consumers, a 3% +/- weight variance based on enforcement of acceptable moisture range needs to be established. A 3% allowance aligns with other known commodities and with California regulations that outline +/- 3%.

Why 3%? Consistent with other items in NIST handbook, aligns with California. If the boundaries are too wide, it exposes the program to diversion.

Is underweight really an issue? I filed Public Records requests with every state that allows *Cannabis* flower commerce. Each of them told me they keep no official records on underweight complaints. However, Oregon went on record telling me underweight is one of their largest complaints (attached). As for one other state, see attached data from Colorado that recorded 69 separate container purchases from 18 separate stores within 4 brands

The submitter asked that this be a Voting Item in 2022.

Previous Action:

N/A

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - ITEM BLOCK 3
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Doug Musick, Kansas commented that he shared this language with a co-worker who regulates hemp. CFR 990.1 defines total delta 9 THC. Loren Minnich, Kansas commented that Kansas defines Cannabis in a way that allows the sale of a different compounds similar to cannabis, and he thinks it should be considered in the development of this item. Dr. Matt Curran, Florida regulator and member of the NCWM Cannabis task force commented that the USDA CFR reference of total delta 9 applies to growth of crops only. Dr. Curran further commented that the term cannabinoids references a broader group of products since states vary. Mike Harrington, Iowa supports the item and believes it should move forward as a voting item. Lisa Warfield, NIST Technical Advisor commented that there are already regulations that can apply to the sale of any item but each and every product is not listed. There are also package and labeling regulations currently in the handbook. OWM requests that states provide input to NCWM as to whether adding definitions would be problematic or conflicting within their states. Ms. Warfield further commented that new language was submitted through WWMA and NEWMA, and that the CWMA L&R Committee consider these changes. She asks that the Committee move the water proposal out of Block 3 and consider it separately. Dr. Curran commented that several of comments in the NIST analysis were inaccurate or</p>

unclear. He proceeded to address some of those comments, particularly related to water activity. Dr. Curran clarified that this item refers to the plant itself – not as an ingredient. He also commented that it is important for the regulatory community to remain relevant in the marketplace by developing code in a timely manner. Charlie Rutherford, NCWM Cannabis Co-chair commented that there are supporting documents from large industry representatives that support the water activity language in this item. He also commented that consumers are being cheated and these items need to be adopted. Charlie Stutesman, Kansas commented that he believes waiting on further development puts us even farther behind where commerce currently is. Ivan Hankins, Iowa supports the item moving forward with voting status and suggests the development of a handbook for states who regulate cannabis. Based on comments during open hearings, supporting documents and discussions, the Committee believes this item is fully developed and ready for voting status.

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

ITEM BLOCK 4 (B4) DISPENSER LABELING REQUIREMENTS

- B4: MOS-22.1 Section 2.20.2. Documentation for Dispenser Labeling Purposes. and 2.20.3. EPA Labeling Requirements.
- B4: FLR-22.1 Section 2.1.2. Gasoline-Ethanol Blends., 2.20.3. EPA Labeling Requirements., 3.2.5. Documentation for Dispenser Labeling Purposes, and 3.2.6. EPA Labeling Requirements.

Source:
NCWM Fuels and Lubricants Subcommittee (FALS)

Purpose:
Provide current references to CFR regulations to maintain alignment with Federal EPA regulations.

B4: MOS-22.1. V Section 2.20.2. Documentation for Dispenser Labeling Purposes. and 2.20.3. EPA Labeling Requirements.

Item Under Consideration:
Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

2.20.2. Documentation for Dispenser Labeling Purposes. – The retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation:

- (a) Information that complies with 40 ~~CFR 80.1503~~ **1090.1110** when the fuel contains ethanol.
- (b) For fuels that do not contain ethanol, information that complies with 40 CFR ~~80.1503~~ **1090.1110** and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or alternatively, use the phrase “contains MTBE or other ethers.”
- (c) Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as “with” or “containing” methanol.

(Added 1984) (Amended 1985, 1986, 1991, 1996, ~~and~~ 2014, and 20XX)

2.20.3. EPA Labeling Requirements. – Retailers and wholesale purchaser-consumers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10 volume percent (v%)

up to 15 volume percent (v%) ethanol (E15) under 40 CFR ~~80.1501~~ 1090.1510. (For additional information, refer to Section 2.30.2. FTC Labeling Requirements.)

(Added 2018) (Amended 20XX)

B4: FAL-22.1 V Sections 2.1.2. Gasoline-Ethanol Blends., 2.20.3. EPA Labeling Requirements., 3.2.5. Documentation for Dispenser Labeling Purposes, and 3.2.6. EPA Labeling Requirements.

Item Under Consideration:

Amend Handbook 130, Uniform Engine Fuels and Automotive Lubricants Regulation, as follows:

2.1.2. Gasoline-Ethanol Blends. – When gasoline is blended with denatured fuel ethanol, the denatured fuel ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” and the blend shall meet the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” with the following permissible exceptions:

- (a) The maximum vapor pressure shall not exceed the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” limits by more than 1.0 psi for blends from June 1 through September 15 as allowed by EPA per 40 CFR ~~80.27(d)~~ 1090.215(b).

(Amended 2016, 2018, ~~and~~ 2019, and 20XX)

2.20.3. EPA Labeling Requirements. – Retailers and wholesale purchaser-consumers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10 volume percent (v%) up to 15 volume percent (v%) ethanol (E15) under 40 CFR ~~80.1501~~ 1090.1510. (For additional information, refer to Section 2.30.2. FTC Labeling Requirements.)

(Added 2018) (Amended 20XX)

3.2.5. Documentation for Dispenser Labeling Purposes. – For automotive gasoline, automotive gasoline-oxygenate blends or racing gasoline, the retailer shall be provided, at the time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other documentation:

- (a) Information that complies with 40 CFR ~~80.1503~~ 1090.1110 when the fuel contains ethanol.

(Added 2014) (Amended 20XX)

- (b) For fuels that do not contain ethanol, information that complies with 40 CFR ~~80.1503~~ 1090.1110 and a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygenate content of at least 1.0 % by volume in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or alternatively, use the phrase “contains MTBE or other ethers.”

(Added 2014) (Amended 20XX)

- (c) Gasoline containing more than 0.3 % by volume methanol shall be identified as “with” or “containing” methanol.

(Added 2014) (Amended 2018)

(Amended 1996, 2014, and 2018)

3.2.6. EPA Labeling Requirements. – Retailers and wholesale purchaser-consumers of gasoline shall comply with the EPA pump labeling requirements for gasoline containing greater than 10 volume percent (v%) up to

15 volume percent (v%) ethanol (E15) under 40 CFR ~~80.1501~~1090.1510. (For additional information, refer to Section 3.8.2. FTC Labeling Requirements.)

(Added 2012) (Amended 2018 **and 20XX**)

(Amended 2018 **and 20XX**)

Previous Action:

N/A

Original Justification:

EPA has changed the location of 40 CFR Part 80 fuel requirements currently referenced in NIST HB 130 to a new location, 40 CFR Part 1090. Beginning January 1, 2021, the references in 40 CFR Part 80 became obsolete. In addition, the Government Printing Office will be removing the text of the old references to the expired 40 CFR Part 80 sections beginning January 1, 2022. In order for NCWM to have the correct references in the Handbook, these citations must be updated to the new citation. Failure to do so in NCWM Handbooks can cause regulatory confusion. In addition, certain states are already considering revising their state laws and regulations in order to update these expired citations.

On December 4, 2020, the U. S. Environmental Protection Agency published a Final Rule, Fuels Regulatory Streamlining, (85 FR 78412). The purpose of the rule was to update and modernize EPA’s existing gasoline, diesel, and other fuel regulations and remove inconsistencies. Under the EPA Fuels Regulatory Streamlining Rule, the majority of fuels provisions were relocated from 40 CFR Part 80 to a new 40 CFR Part 1090.

FALS formed an EPA Streamlining Focus Group in January 2021 in response to the EPA Fuels Regulatory Streamlining Rule. The purpose of the Focus Group was to review Handbook 130 and determine what updates are necessary to align NIST Handbooks with the new EPA Streamlining Rule. The Focus Group analyzed all of EPA’s new Fuels Streamlining regulation and what changes were needed in Handbook 130 and concluded that the only items needing to be updated were to correct obsolete references to the Code of Federal Regulations.

Because NIST HB 130 is not “EPA centric”, there are only 3 individual references that need to be updated in HB 130. Since these 3 references are repeated in different sections and Chapters of HB 130, there are only a total of 7 references needing to be corrected for all of Handbook 130 to align with EPA’s Fuels Streamlining regulation. There are no other revisions necessary at this time.

The recommendations of the FALS Focus Group were submitted by the EPA Streamlining Focus Group to the FALS Chair and were widely disseminated. They were also discussed at the FALS meeting during the Annual Meeting and were approved during the meeting for submission to the Laws and Regulations Committee.

The text of the actual red-line changes and proposed revisions are provided below.

NCWM voted to adopt by reference these specific sections of EPA fuel requirements several years ago with the intent to maintain consistency between these EPA regulations and NIST Handbook 130 without the need for additional action by NCWM.

In updating the reference to the correct number, the Conference would merely be continuing its decision to adopt these referenced sections by correcting the individual citations. The three sections of 40 CFR Part 80 that were renumbered to 40 CFR Part 1090 by EPA and incorporated by reference into NIST Handbook 130 are as follows:

- 40 CFR Part 80.27(d) which grants a 1.0 psi RVP waiver for gasoline containing specific percentages of ethanol is now found in 40 CFR 1090.215(b)
- 40 CFR Part 80.1501 which covers EPA labeling requirements for certain ethanol blends is now found in 40 CFR Part 1090.1510
- 40 CFR Part 80.1503 which covers requirements for product transfer documents is now found in 40 CFR Part 1090.1110

These references occur in the following sections of NIST Handbook 130:

- NIST Handbook 130 “Uniform Fuels and Automotive Lubricants Regulation” Sections:
 - 2.1.2. Gasoline-Ethanol Blends

- 3.2.5. Documentation for Dispenser Labeling Purposes
- 3.2.6. EPA Labeling Requirements
- NIST Handbook 130 “Uniform Method of Sale of Commodities” Sections:
 - 2.20.2 Documentation for Dispenser Labeling Purposes
 - 2.20.3 EPA Labeling Requirements

The obsolete fuel quality regulations contained in 40 CFR Part 80 are currently published on the Electronic Code of Federal Regulations (www.ecfr.gov) website. The replaced references in 40 CFR Part 80 will be removed from the Code of Federal Regulations and will no longer be accessible on January 1, 2022.

The proposed updates were presented to the Fuels and Lubricants Subcommittee (FALS) by its EPA Streamlining Focus Group during the FALS meeting held at the July 2021 meeting of the National Conference on Weights and Measures. During that meeting, FALS endorsed sending the proposed revisions forward for adoption and inclusion in HB 130. That action was summarized in the Report of FALS to the Laws and Regulations Committee. While there was a question as to whether to revise terminology, that was determined by FALS to be outside of the scope of these EPA streamlining changes.

The submitter requested that this be a Voting Item in 2022.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - ITEM BLOCK 4
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Randy Jennings, representing FALS gave a background on this item, and FALS recommends this item move forward as a voting item. Marilyn Herman, Herman & Associates as chair of the FALS EPA Streamlining Rule Task Group commented that the task group supports this item moving forward as a voting item. Chuck Corr, Iowa Renewable Fuels Association, commented that he believes there is an error in FAL 22.1 - (2.20.3 should be stricken and made 3.2.6). He further commented that the new EPA citation reference contains more information than the old citation, and he is concerned it will be more confusing. He is proposing changes which he indicated were relatively minor but further clarify the intent. Charlie Stutesman, Kansas commented that incorporating references in HB 130 rather than listing out the actual language was already adopted by the Conference. He believes the item is ready for voting status. Mr. Jennings commented that the scope of the task group was to change the reference from Part 80 to Part 1090 and to make sure there were no unintended consequences. Kristy Moore, Growth Energy commented that she has additional questions about Part 1090 and wonders if regulators understand that 1090 might broaden their responsibilities. Mike Harrington, Iowa commented that he believes the item needs to be developed. Tamara Paik, Marathon commented that as a regulated entity they must comply with both federal and state regulation, and she believes that if there are further discussions to be had on the issue, they should occur. Rebecca Richardson, NBB and member of the FALS EPA Streamlining task group commented that while there are issues to consider in Part 1090, the purpose of the focus group was to make sure nothing that was in the handbook was omitted as the reference moved from Part 80 to 1090. Ron Hayes, retired regulator from Missouri concurs. The Committee believes this item has been fully developed and ready for voting status.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

FLR - UNIFORM FUELS AND AUTOMOTIVE LUBRICANTS REGULATION

FLR-20.5 W Section 2.1.2.(a). Gasoline-Ethanol Blends.

Source:

American Petroleum Institute (API)

Purpose:

More comprehensively align Handbook 130 Uniform Fuels and Automotive Lubricants Regulations with the U.S. EPA's rule that grants a 1 psi vapor pressure waiver to E15 for summertime (June 1 to September 15) and to help ensure consumers receive a consistent E15 blend. The proposed changes to HB 130 reflect the important information

that an inspector will need to ensure that E15 is properly blended and that the potential harm to the consumer and the environment will be minimized.

Item Under Consideration:

Amend Handbook 130, Uniform Fuels and Automotive Lubricants Regulation as follows:

2.1. Gasoline and Gasoline-Oxygenate Blends

2.1.1. Gasoline and Gasoline-Oxygenate Blends (as defined in this regulation). – Shall meet the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel” except for the permissible offsets for ethanol blends as provided in Section 2.1.2. Gasoline-Ethanol Blends.

- (a) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall not exceed those permitted by the EPA under Section 211 of the Clean Air Act and applicable waivers.

(Added 2009) (Amended 2018)

2.1.2. Gasoline-Ethanol Blends. – When gasoline is blended with denatured fuel ethanol, the denatured fuel ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” and the blend shall meet the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” with the following permissible exceptions:

- (a) The maximum vapor pressure shall not exceed the latest edition of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” limits by more than 1.0 psi for blends **containing at least 9 and not more than 15 volume percent ethanol** from June 1 through September 15 as allowed by EPA per 40 CFR 80.27(d).

(Amended 2016, ~~and~~ 2018, 2019 **and 20XX**)

Section 2.1. NOTE: The values shown above appear only in U.S. customary units to ensure that the values are identical to those in ASTM standards and the Environmental Protection Agency regulation.

(Added 2009) (Amended 2012 and 2016)

Background/Discussion:

Aligning Handbook 130 with the important parts of the U.S. EPA rule that grants a 1-psi vapor pressure waiver during the summer months for E15 is important to ensure that E15 has the correct vapor pressure during these months and provides comprehensive information to aid in ensuring compliant E15 gasoline is provided to consumers. FLR Sections 2.1.2. and 1.23. are modified to address these issues.

Amendments to FLR paragraph 2.1.2.(a), specify that the range of ethanol in the gasoline-ethanol blends qualifying for the 1-psi waiver shall only be from 9 to 15 volume percent as per 40 CFR 80.27(d). The change is unambiguous and does not require the inspector to access the federal rule to understand the applicable range of the waiver.

EPA Final rule, “Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations” June 10, 2019, www.govinfo.gov/content/pkg/FR-2019-06-10/pdf/2019-11653.pdf

U.S. EPA “Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations: Response to Comments.” June 10, 2019. Added in total with an example provided below.

www.regulations.gov/document?D=EPA-HQ-OAR-2018-0775-1174

p. 53 (Response to comments) E15 is allowed to be blended at blender pumps as long as **only certified components** are used (sic) Cases where blender pumps introduce uncertified components into gasoline continue to be illegal and may result in fuel that exceeds gasoline quality standards. Parties that blend uncertified components into previously certified gasoline are considered fuel manufacturers under the regulations at 40 CFR part 79 and refiners under 40 CFR part 80. [emphasis added]

The following quotes from the U.S. EPA proposal provide additional information:

- EPA provided the following comments in its final rule on the recent E15 1-psi waiver related to Section G, 2.1.2. and 1.23.:
 - “[U.S. EPA] note that for E15 produced at blender pumps using E85 made with natural gas liquids, **use of the deemed to comply provision to demonstrate compliance would not be available.** This is because the RVP of natural gas liquids can be as high as 15.0 psi and even a small amount of natural gas liquids could cause the gasoline portion of the blend to not comply with the applicable RVP limitations established under CAA sec. 211(h), which is required under CAA sec. 211(h)(4)(A) to be deemed in compliance. Parties that make E15 at a blender pump using **E85 made with previously certified gasoline can take advantage of the ‘deemed to comply’ provision** and associated affirmative defense at 40 CFR 80.28 if all applicable requirements in 80.28 are met.” (84 FR 27008)

(emphasis added)

- “As discussed in the [U.S. EPA] proposal, E15 made at blender pumps is often made with certified E10 (or CBOB) and E85 (made with denatured fuel ethanol and uncertified hydrocarbon blendstocks, i.e., natural gas liquids). While data is limited, we believe that approximately 50 percent of stations offering E15 make E15 in this manner. (84 FR 27010)
- **40 CFR 80.27(d) *Special provisions for alcohol blends.***
 - (1) Any gasoline which meets the requirements of paragraph (d)(2) of this section shall not be in violation of this section if its Reid vapor pressure does not exceed the applicable standard in paragraph (a) of this section by more than one pound per square inch (1.0 psi).
 - (2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. **The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 15% (by volume) of the gasoline.** The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in § 80.47. The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.
 - (3) **Each invoice, loading ticket, bill of lading, delivery ticket and other document which accompanies a shipment of gasoline containing ethanol shall contain a legible and conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol.**

(emphasis added)

- **40 CFR 80.28(g) *Defenses.***
 - (8) In addition to the defenses provided in paragraphs (g)(1) through (6) of this section, in any case in which an ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer would be in violation under paragraph (b), (c), (d), (e), or (f) of this section, as a result of gasoline which contains between 9 and 15 percent ethanol (by volume) but exceeds the applicable standard by more than one pound per square inch (1.0 psi), the ethanol blender, distributor, reseller, carrier, retailer or wholesale purchaser-consumer **shall not be deemed in violation if such person can demonstrate, by showing receipt of a certification from the facility from which the gasoline was received or other evidence acceptable to the Administrator, that:**
 - (i) **The gasoline portion of the blend complies with the Reid vapor pressure limitations of § 80.27(a); and**
 - (ii) **The ethanol portion of the blend does not exceed 15 percent (by volume); and**

(iii) No additional alcohol or other additive has been added to increase the Reid vapor pressure of the ethanol portion of the blend.

In the case of a violation alleged against an ethanol blender, distributor, reseller, or carrier, if the demonstration required by paragraphs (g)(8)(i), (ii), and (iii) of this section is made by a certification, it must be supported by evidence that the criteria in paragraphs (g)(8)(i), (ii), and (iii) of this section have been met, such as an oversight program conducted by or on behalf of the ethanol blender, distributor, reseller or carrier alleged to be in violation, which includes periodic sampling and testing of the gasoline or monitoring the volatility and ethanol content of the gasoline. Such certification shall be deemed sufficient evidence of compliance provided it is not contradicted by specific evidence, such as testing results, and provided that the party has no other reasonable basis to believe that the facts stated in the certification are inaccurate. **In the case of a violation alleged against a retail outlet or wholesale purchaser-consumer facility, such certification shall be deemed an adequate defense for the retailer or wholesale purchaser-consumer, provided that the retailer or wholesale purchaser-consumer is able to show certificates for all of the gasoline contained in the storage tank found in violation, and, provided that the retailer or wholesale purchaser-consumer has no reasonable basis to believe that the facts stated in the certifications are inaccurate.**

(emphasis added)

On January 17, 2020 Mr. Prentiss Searles (API) submitted modified language for Section 2.1.2.(a). Gasoline-Ethanol Blends. There were over ten letters received in opposition for MOS-20.2. Documentation for Dispenser Labeling Purposes and FLR 20.3. Section 1.23. Ethanol Flex Fuel language. Many were opposed due to its duplication with the EPA compliance program for this subject

NCWM 2020 Interim Meeting: Mr. Searles did provide a presentation and requested from the floor that Section 2.1.2.(a) Gasoline-Ethanol Blends be considered as a Voting Item and he volunteered to chair a workgroup to further develop the remaining items. Many rose in support and opposition of this block of items. It was addressed by Ms. Warfield (NIST) that FALS was tasked by the Committee in July 2019 to review the EPA language and its impact on the regulations within the Fuels Regulations within NIST Handbook 130. FALS Chair Striejewske remarked that he has created a focus group but needs additional clarification from the Committee on what specifically they should address.

During Committee work session they concurred that Section 2.1.2.(a). Gasoline-Ethanol Blends will proceed as a Voting item. All the remaining items will be merged into Block 4 and be assigned to FALS for further development.

NCWM 2020 Annual Meeting: Several comments were heard both in opposition and supporting the item from both industry and regulators. Those opposed included Mr. Mike Harrington (Iowa), Mr. Charlie Stutesman (Kansas), Mr. Jim Willis (New York), Mr. Doug Rathbun (Illinois), Mr. Chuck Corr (Corr Consulting), Ms. Kristy Moore (Growth Energy), and Mr. Kevin Adlaf (ADM). Those opposed voiced concern over the newly implemented EPA streamlining rules. Questions were raised if the changes would affect this item or if the item is now necessary? Other concerns were heard that the language would be moving backwards, that having the percentages listed could cause issues in the future if the EPA changes them again. The current language is effective, and this type of work is done in a lab not the field where the requirements could easily be looked up. Those supporting the item included Mr. Searles, Mr. Joe Sorena (Chevron), Mr. Russ Lewis (Marathon Petroleum). The supporting comments included that this just adds back what was not included during the emergency amendment for the 2020 Handbook. Mr. Harington (Oregon) supporting as a voting item or leave it on the agenda for another cycle. It was decided that further review was needed, and the item was downgraded to Informational status

NCWM 2021 Interim Meeting: The Committee was informed that after a multiyear process the EPA Streamlining Rule was signed in late 2020. The rule has drawn considerable interest and discussion with various stakeholders. Many would like to wait for the streamlining rules and a review of the NIST Handbook regulations. Some believe that language is specified in the CFR and the streamlining rule does not affect this. Some felt this item should be withdrawn in its entirety. A few comments were heard that were similar to those from annual meeting hearings in both support and opposition to of the item. A neutral comment was heard from Mr. Elliott (Washington) challenging for theoretical examples showing the harm of having or not having the proposed language added back in. The Committee deemed this item to be fully developed and felt this should be voted on its own merit.

NCWM 2021 Annual Meeting: FALS Chair Bill Striejewski provided an overview report to the Committee stating this item was discussed at some length during yesterday’s FALS meeting. FLR-20.5 added language to Section 2.1.2(a) relevant to the summertime 1 psi vapor pressure waiver for E15. However, on July 2, 2021, the Washington, District of Columbia Court of Appeals offered an opinion which struck down the waiver, saying in brief that the US EPA had overstepped their authority in granting the waiver in 2019. There were varying views within FALS members as to how this Item should proceed at the Conference. Mr. Corr (C. Corr Consulting) spoke on behalf of a Developing status, as work is required to addressing RBOB limitations. The FALS did recommend to the Committee to de-escalating this item from its current voting status but did not have a consensus recommendation for a new status.

Mr. Searles (API) requested that this item be deescalated until the court matter is sorted out. He informed membership that on July 2, 2021, the U.S. Court of Appeals for the D.C. Circuit issued an opinion that ruled on EPA’s rule in 2019 that extended the E10 Reid Vapor Pressure (RVP) waiver to 15 percent volume ethanol blends (E15) during the summer driving season (June 1 - September 15). The court determined that the Clean Air Act does not authorize the RVP waiver to be extended to E15 and vacated the portion of the rule asserting that E15 is substantially similar to E10. In short, the court overturned EPA’s rule on the E15 waiver. Consequently, by the time the court procedures take place they will not have a mandate to vacate until after the summer driving season is over. Mr. Searles recommend this get assigned back to FALS to keep them engaged. Ms. Moore (Growth Energy) and Mr. Mike Harrington (Iowa and on behalf of the CWMA) recommended this item be withdrawn. An industry member and NEWMA recommended this be deescalated to an Assigned Status.

The Committee deescalated this item from Voting status to Informational and will be responsible for this Item. The Committee will review any court actions on this item and determine a status at the 2022 NCWM Interim Meeting.

Regional Associations’ Comments:

WWMA 2019 Annual Meeting: Mr. Joe Sorena (API) provided a presentation. Mr. Steven Harrington (Oregon) recommended this be assigned to FALS for review and he concurs with the modification to 2.1.2.(a) in adding the language “containing at least 9 and not more than 15 volume percent ethanol.” Mr. Kevin Adlaf (ADM) felt that the proposal provided too much information that was not necessary. Mr. Adlaf asked if there was any data to support this proposal. Ms. Cadence Matijevich (Nevada) remarked that Section 2.1.2.(b), the first sentence has grammar issues. Ms. Jacki Fee (Cargill) remarked that several items were left out of the language. Ms. Kristy Moore (Growth Energy) remarked that the item was addressed at the 2019 NCWM Annual meeting and recommends this item be withdrawn. The Committee is recommending this be Assigned to FALS for further review. It was noted that the formatting was not correct within the agenda and it should appear as:

2.1.2. Gasoline-Ethanol Blends. – When gasoline is blended with denatured fuel ethanol, the denatured fuel ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” and the blend shall meet the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” with the following permissible exceptions:

- (a) The maximum vapor pressure shall not exceed the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” limits by more than 1.0 psi for blends **containing at least 9 and not more than 15 volume percent ethanol** from June 1 through September 15 as allowed by EPA per 40 CFR 80.27(d).

(Amended 2016, 2018, ~~and~~ 2019, **and 20XX**)

- (b) **An ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who exceeds the applicable standard by more than 1.0 psi, shall demonstrate, by showing receipt of a certification from the facility from which the gasoline, gasoline-ethanol blend or ethanol flex fuel blend was received, that the hydrocarbon portion of the blend complies with the Reid vapor pressure and other limitations of 40 CFR 80.27(a), as required in 40 CFR 80.28(g)(8). The certification shall be supported by evidence that the above criteria have been met, such as an oversight program which includes periodic sampling and testing of the gasoline or monitoring the volatility and ethanol content of the gasoline.**

(Added 20XX)

*NOTE 1: The values shown above appear only in U.S. customary units to ensure that the values are identical to those in ASTM standards and the Environmental Protection Agency regulation.
(Added 2009) (Amended 2012, **and** 2016, **and** 20XX)*

SWMA 2019 Annual Meeting: The Committee believed there could be misuse of Section 2.1.2(b). Once the sample is tested it could be in violation for being substandard and the responsible party would be the retailer. How does this responsibility change when they are showing a certification where the product is coming from and is the product in the tank? It would be difficult for the inspector for following the quality and oversight of that product. During work session, clarification was provided that if there is documentation that certified product is within the tank the retailer does not need to test for conformance. There must be a documentation and traceability of the certification. However, if no certification then testing would need to be done to be verified. The Committee did not concur that with the language and the clarification that was provided. They believe that someone needs to be responsible even if certification is provided. There were too many questions concerning this issue and the Committee is requesting this be assigned to FALS for additional work and a recommendation to the NCWM L&R Committee.

NEWMA 2021 Annual Meeting: Mr. Chuck Corr (Iowa Renewable Fuels Association) commented this section be deescalated to Withdrawn status. He stated that three major points for his justification. First, the EPA citation in the proposal is outdated. Second, the text proposed for addition could be considered incomplete. If the details are considered necessary in HB 130, there is an additional stipulation in the regulations that should be included. The proposed text is inconsistent with the new regulation. Third, while the citation in the current regulation must be updated, Mr. Corr feels the current format of only providing the citation is appropriate. The details involve analytical results which are determined in a fuels lab where there is reliable access to the regulations. The field inspectors do not conduct the analytical work on fuel properties. He believes NCWM needs to be careful about adding excessive and unnecessary detail into the handbooks. Kristy Moore (Growth Energy) commented that she requests NEWMA oppose this item and agreed with several of the comments offered by Mr. Corr. The CWMA met earlier in May and voted to recommend a Withdrawn status. The NEWMA L&R Committee believes the item is related to the current EPA Streamlining Rule Focus Group formed by FALS that is harmonizing HB 130 with EPA's new rule. Therefore, the item is not yet finished in its development, and should be assigned to FALS for coordination with the current FALS FG which was not formed until after the 2021 NCWM Interim Meeting.

CWMA 2019 Interim Meeting: Ms. Bev Michels (representing BP and API) commented that the purpose of this item is the same as items in Block 4. Mr. Charlie Stutesman (Kansas) stated that this proposal adds new provisions in addition to the Clean Air Act. Ms. Michels commented that she believes this proposal is directed only to the elements that regulators would be enforcing and provide consumer protection. Mr. Doug Musick (Kansas) asked why natural gas liquids (NGL) as an additive was considered a certified component. Mr. Mike Harrington (Iowa) commented that he had gotten a call from an engine manufacturer about bad fuel. Mr. Harrington indicated that he told this engine manufacturer that 30 % of the fuel was NGL. The OEM indicated that should not be problematic. Mr. Rod Lawrence, (Magellan) commented that he met with EPA and clarified that you cannot use an ethanol flex fuel made with uncertified NGL's to meet RFS volume obligations. Ms. Tamara Paik (Marathon Petroleum Co.) commented that if you certify the NGL's, then you know the Reid vapor pressure (RVP). Mr. Charlie Stutesman commented that he recommends this item be withdrawn and believes this issue could conflict with the Clean Air Act, and if a fuel fails vapor pressure, it is not in specification. Mr. Harrington recommended the item be withdrawn. Mr. Kevin Adlaf (ADM) wonders if weights and measures then become EPA's customer through this proposal and is concerned about language being outdated soon after it is implemented. Mr. Chuck Corr (CC Consulting) commented that he believes the language will lead to additional aspects to be enforced. He also recommends that the item be withdrawn. Based on the comments during open hearings, the Committee recommends the item be withdrawn.

CWMA Report - FLR-20.5	
Regional recommendation to NCWM on item status:	
<input type="checkbox"/>	Recommend as a Voting Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Information Item on the NCWM agenda
<input type="checkbox"/>	Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i>
<input type="checkbox"/>	Recommend as a Developing Item on the NCWM agenda

<p><i>(To be developed by source of the proposal)</i></p> <p><input checked="" type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i></p> <p><input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i></p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Charlie Stutesman, Kansas commented that this item should be withdrawn. Kristy Moore, Growth Energy concurs that the language as it appears in the Handbook today is accurate. Mike Harrington, Iowa also recommends this item be withdrawn. Tamara Paik, Marathon, commented that API asks that this item be kept as an informational item and allows it to move forward depending on the outcome of the court determination. Ms. Moore further commented that the proposal is misleading. After considering the comments during open hearings, the Committee believes this item should be withdrawn.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

ITEM BLOCK 6 (B6) TRANSMISSION FLUID

- B6: MOS-21.1 A Section 2.36.2. Labeling and Identification of Transmission Fluid
- B6: FLR-21.2 A Section 3.14.1. Labeling and Identification of Transmission Fluid

Source:
Missouri Department of Agriculture

Purpose:
Protect consumers by providing a cautionary statement of package labels of obsolete transmission fluids.

B6: MOS-21.1. A Section 2.36.2. Labeling and Identification of Transmission Fluid

Item Under Consideration:
Amend Handbook 130, Uniform Regulation for the Method of Sale of Commodities, as follows:

2.36.2. Labeling and Identification of Transmission Fluid. – Transmission fluid shall be labeled or identified as described below.

(Added 2017)

2.36.2.1. Container Labeling. – The label on a container of transmission fluid shall not contain any information that is false or misleading. Containers include bottles, cans, multi-quart or liter containers, pails, kegs, drums, and intermediate bulk containers (IBCs). In addition, each container of transmission fluid shall be labeled with the following:

- (a) the brand name;
- (b) the name and place of business of the manufacturer, packer, seller, or distributor;
- (c) the words “Transmission Fluid,” which may be incorporated into a more specific description of transmission type such as “Automatic Transmission Fluid” or “Continuously Variable Transmission Fluid”;
- (d) the primary performance claim or claims met by the fluid and reference to where any supplemental claims may be viewed (for example, website reference). Performance claims include but are not

limited to those set by original equipment manufacturers and standards setting organizations such as SAE and JASO and are acknowledged by reference; and

- (e) an accurate statement of the quantity of the contents in terms of liquid measure.
- (f) **Any obsolete equipment manufacturer specifications shall be clearly identified as “obsolete” and accompanied by the following cautionary statement on the principal display in accordance with the Uniform Packaging and Labeling Regulation, Section 8. Prominence and Placement: Consumer Packages and Section 9. Prominence and Placement: Non-Consumer Packages.**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission is possible when using in applications in which it is not intended. Always refer to your vehicle owner’s manual for proper transmission fluids.

The above ~~warning~~ cautionary statement is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications
(Added 20XX)

(Added 2017 **and Amended 20XX**)

B6: FLR-21.2. A Section 3.14.1. Labeling and Identification of Transmission Fluid

Item Under Consideration:

Amend Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, as follows

3.14.1. Labeling and Identification of Transmission Fluid. – Transmission fluid shall be labeled or identified as described below

(Added 2017)

3.14.1.1. Container Labeling. – The label on a container of transmission fluid shall not contain any information that is false or misleading. Containers include bottles, cans, multi-quart or liter containers, pails, kegs, drums, and intermediate bulk containers (IBCs). In addition, each container of transmission fluid shall be labeled with the following:

- (a) the brand name;
- (b) the name and place of business of the manufacturer, packer, seller, or distributor;
- (c) the words “Transmission Fluid,” which may be incorporated into a more specific description of transmission type such as “Automatic Transmission Fluid” or “Continuously Variable Transmission Fluid”;
- (d) the primary performance claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims include but are not limited to those set by original equipment manufacturers and standards setting organizations such as SAE and JASO and are acknowledged by reference; and
- (e) an accurate statement of the quantity of the contents in terms of liquid measure.
- (f) **Any obsolete equipment manufacturer specifications shall be clearly identified as “obsolete” and accompanied by the following cautionary statement on the principal display panel in accordance with the Uniform Packaging and Labeling Regulation, Section 8. Prominence and**

Placement: Consumer Packages and Section 9. Prominence and Placement: Non-Consumer Packages.

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission is possible when using in applications in which it is not intended. Always refer to your vehicle owner's manual for proper transmission fluids.

The above cautionary statement is not required if the fluid claims to meet current original equipment manufacturer's specifications and refers to thereby preceding specifications (Added 20XX)

(Amended 2017 **and 20XX**)

Previous Action:

- 2021: Assigned to the NCWM Fuels and Lubricants Subcommittee for further Development

Original Justification:

Cautionary statements regarding obsolete products are currently required for tractor hydraulic fluids and are under consideration for motor oil. A cautionary statement and its position on the product label are currently not required for Transmission fluid in either the Method of Sale, or Fuels and Lubricants Regulations. This proposal will protect consumers by ensuring they are informed when purchasing transmission fluids.

The submitter acknowledged that there may be argument that there is not sufficient space on the front package label for a cautionary statement.

The submitter requested voting status for this item in 2021.

Arguments in Favor:

Regulatory:

- 2021 Interim: Mr. Ron Hayes (retired) provided an overview to the Committee regarding the issue with obsolete fluids in the marketplace. He also remarked that at the CWMA 2020 Meeting he with worked with Ms. Warfield (NIST OWM) to clarify the language in the first paragraph of (f).
- 2021 Annual Meeting: FALS Chair Bill Striejewske provided an updated that Ms. Johnson provided an update of the FG work to date. The FG has concluded that the model regulation in the handbook is sufficient, but there is no licensing system for transmission fluid as there is for engine oil. Transmission fluids have been found in the marketplace in Missouri that are not suitable for use in some transmissions. The group is working to harmonize the various standards across the industry. A number of OEM specifications have been found and are being categorized. This work is ongoing.

Industry:

- 2021 Annual Meeting: During open hearings several industry representatives spoke in support of this item.

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

- 2021 Interim: Ms. Warfield (NIST OWM) remarked that the language should be clear and conspicuous following the UPLR. It was unknown whether this product type include both consumer and non-consumer type packaging.

Neutral Comments:

Regulatory:

- 2021 Interim: FALS Chair Bill Striejewski informed the Committee that Ms. Johnson provided a presentation that provides additional information, and he will request NCWM post this

Industry:

- 2021 Interim: Ms. Johanna Johnson would like additional time to reach consensus with industry regarding to align terminology (e.g., obsolete, current, active). Ms. Johnson requested the Committee provide this with an informational status.

Advisory:

- 2021 Interim: Ms. Warfield had noted that UPLR does not have specifications for color however, Section 8. does state it must be conspicuous.

Item Development:

NCWM 2021 Interim Meeting: The Committee reviewed the following item for consideration in NCWM Publication 15 (2021):

- (e) **Any obsolete equipment manufacturer specifications shall be clearly identified as “obsolete” and accompanied by the following warning on the principal display panel in clearly legible font size and color as stated in Uniform Packaging and Labeling Regulation 8.2.2.:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the Transmission is possible when using in applications in which it is not intended. Always refer to your vehicle owner’s manual for proper transmission fluids.

The above warning is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications

(Added 20XX)

It was agreed by the Committee that this language should be identical to the language that was just voted in at the 2020 NCWM Annual Meeting within Item Block 2. Tractor Hydraulic Fluid.

The Committee provided this a status of Assigned and would like FALS to further evaluate with recommendations that Ms. Johnson provides. The Committee would like FALS to review the language to see if this product includes consumer and non-consumer type packaging. Many spoke in support of how this item will be developed through FALS.

NCWM 2021 Annual Meeting: No action taken by the Committee.

Regional Associations’ Comments:

WWMA 2020 Annual Meeting: The Committee heard concerns from regulators about having an up-to-date reference table to implement and enforce this regulation for transmission fluids. Mr. Ron Hayes (Missouri, submitter) indicated he would work with Lubrizol to provide a table. The Committee heard concerns from regulators regarding the necessity of the language proposed in the third paragraph of subsection (f) in proposals MOS-21.1 and FLR 21.2;

testimony indicated that this language is not needed and confusing. The Committee heard concerns from regulators regarding a definition for “obsolete.”.

The WWMA L&R Committee recommends this as a Developing item. The Committee recommends that the third paragraph in Section 2.36.2.1.(f) be removed from both items, that a reference table be provided prior to the item being forwarded for a vote, and that the submitter include a clear definition of obsolete in the proposal.

- (f) **Any obsolete equipment manufacturer specifications shall be clearly identified as “obsolete” and accompanied by the following warning on the principal display panel in clearly legible font size and color as stated in Uniform Packaging and Labeling Regulation 8.2.2.:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the Transmission is possible when using in applications in which it is not intended. Always refer to your vehicle owner’s manual for proper transmission fluids.

~~The above warning is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications.~~

SWMA 2020 Annual Meeting: Mr. Stephen Benjamin (North Carolina) expressed his support of the item. The Committee had concerns over the definition of “obsolete” and the need for the third paragraph in Section 2.36.2.1.(f). It was also noted that UPLR 8.2.2 does not address color. This section was amended by the Committee to read Section 8.1. General.

The SWMA L&R Committee recommends this as an Information item. The Committee recommends that the submitter provide a clear definition of obsolete, that the first paragraph of Section 2.36.2.1.(f) for both items be updated as suggested below and that the third paragraph of subsection (f) be removed from both items.

- (f) **Any obsolete equipment manufacturer specifications shall be clearly identified as “obsolete” and accompanied by the following warning on the principal display panel in accordance with clearly legible font size and color as stated in ~~Uniform Packaging and Labeling Regulation 8.1General-8.2.2.:~~**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the Transmission is possible when using in applications in which it is not intended. Always refer to your vehicle owner’s manual for proper transmission fluids.

**~~The above warning is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications~~
(Added 20XX)**

NEWMA 2021 Annual Meeting: Ms. Warfield (NIST Technical Advisor) commented that there is a TG within FALS working on this item and expect to have an update by the Fall 2021 Regional meetings. Mr. Walt Remmert (Pennsylvania) questioned the shelf life of transmission fluid. The Committee believes this item should remain as an Assigned item.

CWMA 2020 Interim Meeting: Ms. Joanna Johnson (Automotive Oil Change Association [AOCA]) commented that this should remain a Developing item. There are several facets of this item that require further discussion. engine oil and transmission fluid terminology are not necessarily consistent. Automakers have no history using this type of language for transmission fluid and wants to work with other stakeholders to develop language for consumer protection as the submitter intended. Mr. Aaron Lowe (Auto Care Association) representing auto part chains, agrees with Ms. Johnson, and supports the general idea but needs more study. An average age for cars on the road currently is twelve-years and additional study is needed to develop language. Mr. Jeff Harmening (API) concurs with the above-mentioned comments. Mr. Charlie Stutesman (Kansas) commented that this item has merit and should move forward as a developing item. Mr. Ron Hayes (Missouri and submitter) commented that this item is intended to give consumer guidance like other equipment fluids. He intends to continue to work with industry on this item including developing a list of obsolete oils. Mr. Jeff Leiter (ILMA) submitted written comments that were reviewed by the

Committee. Ms. Warfield asked if the submitter wishes the item to be developed through FALS. Mr. Hayes agrees that the item is developing and should be assigned to FALS for further review. Based on discussions during open hearings and the Committee work session, the Committee recommends the item be Assigned and be referred to FALS.

At the CWMA 2021 Annual Meeting, Mr. Hayes commented that there is a TG working on developing this item and will report on further advancements in the future. Mr. John Bell (MO) commented that this item was submitted to match language in other sections of Handbook 130.

CWMA Report - ITEM BLOCK 6
Regional recommendation to NCWM on item status:
<input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input checked="" type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i>
Ron Hayes, retired regulator from Missouri commented that there have been several meetings related to this issue, and he and Alan Morrison, California regulator are working on a list of specifications for all existing transmission fluids for engines. He believes the item is fully developed and is ready for voting status pending the completion of the list of specifications for transmission fluids for engines. Joanna Johnson, Automotive Oil Change Association and chair of the FALS Transmission Fluid Focus Group made several comments. The focus group does not recommend the current language because there is no clear distinction or understanding of the definition of obsolete. The focus group is supportive of developing the complete list of specifications to see if there is a way to distinguish ones that are not fit for purpose or should be considered obsolete, and the engine manufacturers will comply with. Based on comments provided during open hearings, the Committee recommends the item remain assigned to the focus group.

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

OTH – OTHER ITEMS

OTH-22.1 I Uniform Regulation for E-commerce Products

Source:

NCWM Packaging and Labeling Subcommittee (PALS)

Purpose:

Provide an update of the activities of PALS which works on direction from and reports to the L&R. This is to propose a new regulation for Handbook 130 covering sites and products which are sold through e-commerce.

Item Under Consideration:

Adopt a Handbook 130, Uniform Regulation for E-commerce Products, as follows:

A. Uniform Labeling Regulation for E-commerce Products

1. Background

The Uniform Labeling Regulation for E-commerce Products Regulation was adopted during the 1XXth Annual Meeting of the National Conference on Weights and Measures (NCWM) in 202X. Reporting to the Conference, the Packaging and Labeling Subcommittee stated:

The National Conference has adopted a model e-commerce labeling regulation for guidance to those states authorized to adopt such a regulation under provisions of their weights and measures laws. Since so much of the work of weights and measures officials in the field concerns consumer commodities and food, drug and cosmetic products, uniformity between the Federal (FDA and FTC) regulations, the Uniform Packaging and Labeling Regulation and any model regulations to be adopted by this Conference would provide significant benefit to both the U.S. consumer and manufacturer. The consumer benefit of having clear and consistent information on all product descriptions would allow for easier and more informed comparisons between similar and different products. The manufacturer benefit would be less complexity in ensuring labeling meets the Federal regulations.

The process of amending and revising this Regulation will be a continuing one in order to keep it current with practices in the e-commerce industry and make it compatible with appropriate federal regulations.

Nothing contained in this regulation should be construed to supersede any labeling requirement specified in federal law.

2. Status of Promulgation

(Table of Contents will be developed)

Uniform Labeling Regulation for E-commerce Products

Preamble

The purpose of this regulation is to provide accurate and adequate information for consumer products subject to FPLA requirements sold via e-commerce as to the identity and quantity of contents so that purchasers can make price and quantity comparisons.

Section 1. Application

This regulation shall apply to products and transactions which occur when purchasers are not present to purchase a consumer or non-consumer product in person.

This regulation specifically establishes requirements for websites, phone applications and other sites/programs which offer products for sale and permit consumers to make purchases without being physically present to inspect and select individual products and commodities in-person.

This regulation also applies to the product information which must accompany the products the purchaser receives after purchase from a website, phone application or site from which the purchase occurred.

This regulation shall not apply to:

- (a) inner wrappings not intended to be individually sold to the customer;
- (b) shipping containers or wrapping used solely for the transportation of any commodities or products.
- (c) shipping containers and inner wrappings for products or commodities purchased in quantity by manufacturers, packers, or processors in industrial proportions, or to wholesale or retail distributors who subsequently distribute or offer for sale products and commodities.

- (d) auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity.

Section 2. Definitions

The following definitions apply to this regulation:

2.1. E-commerce – The process of offering for sale and transacting sales of one or more consumer commodities or non-consumer products when the customer is not physically present at the point of purchase. e-commerce includes the sale of consumer commodities or non-consumer products on-line through websites and phone applications, catalog sales and sales transacted through 3rd parties to select and/or deliver consumer commodities to consumer residences.

2.2. E-commerce Product – A consumer commodity or non-consumer product offered for sale through e-commerce.

2.3. E-commerce Site – The site, program or interface through which customers make product purchases. An E-commerce Site may allow users to choose between similar products/commodities or provide a purchase option. Product comparisons may be permitted on a single e-commerce site or may require the purchaser to make product comparisons between one or more e-commerce sites. An e-commerce site may be a manufacturer website, a retail website, a delivery service site, phone applications offered by manufacturers, retailers, delivery services, 3rd party providers or other interface in which the customer is physically not present to inspect and select products.

2.4. Customer – A person or entity purchasing an e-commerce product for their own use, the use of another person, or a business.

2.5. Package. – Except as modified by Section 1, the term “package,” whether standard package or random package, means any consumer commodity or non-consumer product which is:

- (a) enclosed in a container or wrapped in any manner in advance of wholesale or retail sale; or**
- (b) whose weight, measure or count has been determined in advance of wholesale or retail sale. An individual item or lot of any commodity or non-consumer product on which there is marked a selling price, or for which there is represented to be a pre-determined selling price, based on an established price per unit of weight, count or measure shall be considered a package (or packages).**

2.6. E-commerce Package – Any consumer commodity or non-consumer product with a defined net quantity been which is sold through e-commerce and is:

- (a) enclosed in a container or wrapped in any manner in advance of on-line sale; or**
- (b) not enclosed prior to on-line sale and wrapped or packaged for shipment or delivery after sale, or**
- (c) not enclosed prior to on-line sale and does not require wrapping or packaging for delivery after sale.**

2.7. E-commerce Standard Package -- A consumer commodity sold or offered for sale via e-commerce where lots or shipments of the same commodity have identical net content declarations.

2.8. E-commerce Random Quantity Package – A consumer commodity or non-consumer product sold or offered for sale via e-commerce wherein lots or shipments have varying net contents. The net quantity of contents for a random quantity package is fully defined once the consumer’s order is fulfilled by the seller or distributor.

2.9. Sale from Bulk. – The term “sale from bulk” means the sale of commodities when the quantity is determined at the time of sale.

2.10. E-commerce Bulk Product – A consumer commodity or non-consumer product sold or offered for sale via E-commerce and the product is not packaged at time of purchase. An e-commerce bulk product may or may not be wrapped upon its sale to facilitate shipment or delivery.

2.11. Consumer Commodity – An article, product or commodity that is customarily produced or distributed for consumption or use by individuals for the purpose of consumption, personal care or personal use in services ordinarily in or around the household or for personal possessions.

2.12. E-commerce Consumer Commodity – A consumer commodity or product sold or offered for sale via e-commerce which is an article, product or commodity intended for use by, produced for or customarily used by an individual or individuals for purposes of consumption or performance of services ordinarily rendered within a household.

2.13. E-commerce Non-Consumer Product – A product sold or offered for sale via e-commerce which is not a consumer commodity and is intended for use by a business or institution for industrial use or wholesale distribution. An E-commerce Non-Consumer product is typically from one business to another business.

2.14. E-commerce Non-Consumer Package – An e-commerce non-consumer product sold or offered for sale which has been packaged or for which the net quantity has been determined prior to sale on an e-commerce site.

2.12. E-Commerce Package Label. – Any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or contained within a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package.

2.13. E-commerce Receipt. -- A complete record of a transaction involving the purchase of one or more e-commerce products purchased at the same time from the same e-commerce site. e-commerce receipts may be either electronic or paper as described in this regulation.

2.14. SI or SI Units – SI or SI Units means the International System of Units as established in 1960 by the General Conference on Weights and Measures (CGPM) and interpreted or modified for the United States by the Secretary of Commerce

2.15. U.S. Customary Units – Units based upon the inch, foot, gallon, and the pound commonly used in the United States of America. US Customary units include units for weight, liquid measure, linear measure, area measure, volume measure and dry measure. The NIST Uniform Packaging and Labeling Regulation details use of U.S. Customary units for consumer packages.

2.16 Person – The term “person” means either singular or plural and shall include any individual, partnership, company, corporation, association, or society engaged in e-commerce activity.

Section 3. Required Declarations for E-commerce Sites Offering E-commerce Consumer Commodities and E-commerce Non-Consumer Products for Sale

Consumer commodities are being purchased through e-commerce sites whereby the customer makes purchase decisions based upon the product information provided on the website, phone application or other remote means. Because customers make e-commerce purchase decisions based on available information provided on these sites or venues, customers should expect the information provided to be sufficiently complete in order to make informed purchase decisions and accurate value comparisons. To that end, certain price and FPLA-required label information must be provided to purchasers on the E-commerce site where a product is offered

for sale. The elements of the FPLA information required by this regulation are also present in regulations promulgated by other Federal agencies such as EPA, FTC and the Department of Agriculture.

Non-Consumer Products are also purchased through use of e-commerce sites. In order for a site user to make value comparisons and a purchase decision, certain product information must be present for a purchaser to make informed product selections and purchases.

3.1. E-commerce Site Requirements for Standard Packages. – The following shall apply to e-commerce sites on which standard packages are offered for sale:

- (a) Declaration of Identity. – The product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Wherever applicable, the product brand name shall be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the product.
- (b) Declaration of Net Quantity. – The declaration of net quantity shall appear on the e-commerce site in a prominent location and in a conspicuous manner which clearly communicates the package net quantity. This information shall be provided separately from and in addition to any picture or image of the product. This information shall be provided in both U.S. customary and SI units unless the product is exempt from the Fair Packaging and Labeling Act requirements and meets existing labeling requirements for that product.
- (c) Product Price. – The price of the product shall appear on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.
- (d) Product Photo or Product Representation. – The e-commerce site shall provide a photo or visual representation of the product to help consumers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.
- (e) Brand Name or Product Manufacturer. – The e-commerce site shall provide the name of the manufacturer, distributor or the brand of any product offered for sale, where applicable.

3.2. E-commerce Site Requirements for Random Quantity Packages. – The following shall apply to e-commerce sites on which random content packages are offered for sale:

- (a) Declaration of Identity. – The product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Wherever applicable, the product brand name shall be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the product.
- (b) Unit Price. – The unit price of the product shall appear on the e-commerce site in a conspicuous and prominent location. This information shall be provided separately from and in addition to any picture or image of the product.
- (c) Net Quantity Information. – For each product offered for sale in random quantity packages, a range of potential product net quantities and an estimated maximum possible item net weight shall be displayed to customers on the e-commerce site in a conspicuous and prominent location.
- (d) Product Price – For each product offered for sale in random quantity packages, a range of potential product prices and an estimated maximum possible item price shall be displayed to customers on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for

shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.

- (e) Product Photo or Product Representation. – The e-commerce site shall provide a photo or representative visual representation of the product to help customers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.
- (f) Brand Name or Product Manufacturer. – The e-commerce site shall provide the name of the manufacturer, distributor or the brand when it is different from the person or entity responsible for the website.

3.3. Bulk Product E-commerce Site Requirements. – The following shall apply to e-commerce sites on which products from bulk are offered for sale:

- (a) Declaration of Identity. – The bulk product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Brand name (if applicable) may be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the bulk product.
- (b) Unit Price. – The unit price of the product shall appear on the e-commerce site in a conspicuous and prominent location. This information should be provided separately from and in addition to any picture or image of the bulk product.
- (c) Net Quantity Information. – An estimated minimum and/or maximum possible product net quantity, if applicable to any product offered for sale from bulk, shall be provided on the e-commerce site in a conspicuous and prominent location.
- (d) Product Price – For products offered for sale limited to minimum and/or maximum per-order quantities, an estimated minimum or maximum possible product price, where applicable, shall be provided to the customer on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.
- (e) Product Photo or Product Representation. – The e-commerce site shall provide a photo or visual representation of the bulk product to help customers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.

3.4. Non-Consumer Product E-commerce Site Requirements. – The following shall apply to e-commerce sites on which non-consumer products are offered for sale:

- (a) Packaged Non-Consumer E-commerce Products. – If the non-consumer product is packaged as a standard package, the requirements of Section 3.1. E-commerce Site Requirements for Standard Packages shall apply. If the non-consumer product is packaged as a random content package, the requirements of Section 3.2. E-commerce Site Requirements for Random Quantity Packages shall apply.
- (b) E-commerce Products Purchased from Bulk. – If the non-consumer product is not packaged at the time of purchase, the requirements for Section 3.3. Bulk Product E-commerce Site Requirements shall apply.

Section 4. Required Information Upon Product Delivery: Requirements for Standard or Random Quantity Packages Purchased from an E-commerce Site

4.1. Standard Package E-commerce Delivery Requirements. – The information below shall be provided within, upon or together with each standard package delivered to / received by a customer in an e-commerce transaction. Products which are labeled to be compliant with the ULPR meet the requirements for Declaration of Identity, Net Quantity and Responsibility. Products which are not labeled for retail sale as prescribed by the UPLR must provide the following:

- (a) Declaration of Identity. – The product declaration of identity shall be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of identity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.**
- (b) Declaration of Net Quantity – The declaration of net quantity must be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it must be clear which information applies to each product. Although the declaration of net quantity may also appear on a receipt or invoice, a receipt by itself is not an adequate means to provide this information.**
- (c) Declaration of Responsibility. – The declaration of responsibility, including name and address, must be prominently placed on the product or package or on written materials provided attached to or within the package. Where multiple products are delivered concurrently, it must be clear which information applies to each product.**
- (d) Product Price. – The total price of the product shall be provided to the customer, either on a receipt or invoice or by appearing upon, within, or with the delivered standard package.**

4.2. Random Quantity Package E-commerce Delivery Requirements. – The following shall apply to the information provided within, upon, or together with each random quantity package delivered to/received by a customer in an e-commerce transaction:

- (a) Declaration of Identity. – The product declaration of identity shall be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it shall be clear which information applies with each product. Although the declaration of identity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.**
- (b) Unit Price. – The unit price of the product shall be provided to the customer, either on a receipt or invoice, by marking or labeling upon the package(s) or by other written documentation included with the delivered product, and must be in the same units of measure as displayed on the website.**
- (c) Net Quantity Information. – The actual net quantity of the product shall be prominently marked or displayed on the product or on written materials attached to or within the package and must be in the same units of measure as displayed on the website. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of net quantity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.**
- (d) Product Price. – The actual charged price for the product must be prominently marked upon the product or be recorded and displayed on documentation within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. The product receipt shall provide the purchaser with cost information including the cost of the product and any**

applicable additional charges. Although the price information may also appear on a receipt or invoice, it must also be provided as specified above with the product package.

- (e) Declaration of Responsibility. – The declaration of responsibility, including name and address, shall be prominently marked upon the product or package or recorded and displayed on documentation within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of responsibility may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.

4.3. Bulk Product E-commerce Delivery Requirements – The following shall apply to the information provided on or with bulk products delivered to / received by a customer in an e-commerce sale:

- (a) Declaration of Identity. – The bulk product declaration of identity shall be provided to the customer on a transaction receipt. A Declaration of Identity may also be marked upon or on written documentation attached to the bulk product, but this does not preclude it from being displayed on the receipt.
- (b) Unit Price. – The unit price of the product shall be provided to the customer on the transaction receipt. The Unit Price may also be displayed upon the product or its packaging, but this does not preclude it from being recorded on the receipt.
- (c) Declaration of Net Quantity. – The actual net quantity of the product delivered shall be provided to the customer on the transaction receipt. Actual net quantity shall be documented for the transaction as the customer was not present when the product(s) was selected. The Declaration of Net Quantity may be displayed upon the product or its packaging, but this does not preclude it from being recorded on the receipt.
- (d) Product Price. – The total price charged for the product shall be provided to the customer on the transaction receipt.

4.4. Non-consumer Product E-commerce Delivery Requirements. – The following shall apply to the information provided on or with a non-consumer product delivered to / received by a customer in an e-commerce sale:

- (a) Packaged Non-Consumer E-commerce Products. – If the non-consumer product is packaged as a standard package, the requirements in Section 4.1. Standard Package E-commerce Delivery Requirements shall apply. If the non-consumer product is packaged as a random quantity package, the requirements of Section 4.2. Random Quantity Package E-commerce Delivery Requirements apply.
- (b) E-commerce Products Purchased from Bulk – If the non-consumer product is not packaged at the time of purchase, the requirements for Section 4.3. Bulk Product E-commerce Delivery Requirements shall apply.

Section 5. Unit Pricing Requirements on E-Commerce Sites for Products Offered for Sale

5.1. Unit Pricing for E-commerce Products. – Unit Price is required to be displayed in any representation of offers to sell products from bulk or in random quantities on E-commerce sites. Unit Price information is not required for standard packages offered for e-commerce sale, however, unit pricing information for standard packages may be provided voluntarily. Unit pricing information, whether required or voluntarily added, is required to meet the following requirements:

- (a) The unit price must be consistent with the required method of sale for the product. – See Section 6.6. Declaration of Quantity – E-Commerce Products, of this regulation to determine the appropriate method(s) of sale according to product type.

- (b) The unit price must be in consistent units for similar products. – For unit pricing to facilitate effective value comparison, similar products shall be advertised and displayed with unit prices in the same manner. For example, unit pricing some similar liquid products by the fluid ounce, others by the pint and still others by the gallon does not promote effective value comparison. Operators of e-commerce sites are required to identify the most effective unit for ensuring the ability for customers to accurately and effectively perform value comparison between similar products with varying product sizes and to display unit prices uniformly.
- (c) The unit price information must be displayed in close proximity to the product price information. When present, unit price information is to be displayed in a manner so that it is in adjacent to or in close proximity to all other product pricing information.

Section 6. Declaration of Quantity– E-commerce Products

6.1. E-commerce Site Requirements – Any e-commerce package offered for sale on an e-commerce site shall be displayed or represented on the e-commerce site with a separate Declaration of Quantity statement which details the quantity of product that the package contains in metric (SI) and US Customary units of measure and/or in count consistent with the requirements for packages intended for retail sale prescribed in the Uniform Packaging and Labeling Regulation (Reference appropriate UPLR section(s)). The Declaration of Quantity must be accurately displayed in relevant units to facilitate value comparison. The declaration shall not be misleading or deceptive.

6.2. E-commerce Package Requirements – E-commerce standard, random quantity packages, and pre-packaged non-consumer packages delivered to customers shall have an accurate Declaration of Net Quantity on the package label. In the event one of these e-commerce packages does not have a label, the Declaration of Net Quantity shall appear upon or in documentation within the package.

6.3. E-commerce Bulk or Unpackaged Product Requirements – E-commerce bulk and non-consumer products which are not packaged prior to purchase, at the time of delivery to the customer, must be accompanied by an accurate Declaration of Net Quantity on a printed transaction receipt. This printed receipt shall include the product identity, unit price, net quantity, and actual charged price in a clear and non-misleading manner for all bulk or non-packaged products. Electronic receipts may be used in place of paper receipts if the information required for a paper receipt is printed upon or contained in each individual bulk and/or non-packaged product. Electronic receipts maybe provided in place of printed receipts if the customer specifies an electronic receipt is preferred.

6.4. Measurement Systems:--The International System of Units (SI), known as the metric system and the U.S. customary system of weights and measures are recognized as proper systems to be used in the declaration of quantity for e-commerce products. Units of both systems may be combined in a dual declaration of quantity. Numerical count is permitted for products when the product statement of identity and numerical count are fully informative of the product’s contents.

6.5. Largest Whole Common Unit. – This regulation requires that the quantity declaration for similar types and sizes of products be in terms of the largest whole common unit. With respect to a particular product offered for sale, the declaration shall be in terms of the largest common whole unit of weight or measure with any remainder expressed:

- (a) SI Units. – in decimal fractions of such largest whole unit.
- (b) U.S. Customary Units. –

 - (1) in common or decimal fractions of such largest whole unit; or
 - (2) where appropriate, the next smaller whole unit or units with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

6.6. Terms: Weight, Liquid Measure, Dry Measure, or Count. – The declaration of the quantity of a particular E-commerce product shall be expressed in terms of liquid measure if the commodity is liquid, in terms of dry measure if the commodity is dry, in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

6.7. SI Units: Mass, Measure. – A declaration of quantity for an e-commerce product or package shall be expressed in units according to the provisions of the UPLR (add appropriate reference), the applicable Method of Sale Regulation (add appropriate reference) or the applicable regulation(s) of another regulatory agency. Generally, declarations are to follow the requirements detailed below:

- (a) **in units of mass shall be in terms of the kilogram, gram, or milligram;**
- (b) **in units of liquid measure shall be in terms of the liter or milliliter, and shall express the volume at 20 °C, except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15.6 °C, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of malt beverages or a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 4 °C;**
- (c) **in units of linear measure shall be in terms of the meter, centimeter, or millimeter;**
- (d) **in units of area measure shall be in terms of the square meter, square decimeter, square centimeter or square millimeter;**
- (e) **in units of volume other than liquid measure shall be in terms of the liter and milliliter, except that the terms cubic meter, cubic decimeter, and cubic centimeter will be used only when specifically designated as a method of sale;**
- (f) **Shall be expressed in units so that the numerical declaration is greater than the number one “1” and less than number one thousand “1000”. While a common unit is required for similar products of similar size, when the product size range results in numerical declarations which are less than one or exceed 1000, then added units are permitted.**

Examples:

500 g, not 0.5 kg

1.96 kg, not 1960 g

750 mL, not 0.75 L

750 mm or 75 cm, not 0.75 m

- (g) **SI declarations should be shown in three digits except where the quantity is below 100 grams, milliliters, centimeters, square centimeters, or cubic centimeters where it can be shown in two digits. In either case, any final zero appearing to the right of the decimal point need not be shown; and the declaration of net quantity of contents shall not be expressed in mixed units.**

Example:

1.5 kg, not 1 kg 500 g

- (h) **Only those symbols as detailed in Section 6.5. Largest Whole Common Unit may be employed in the quantity statement on a package of commodity.**

6.8. U.S. Customary Units: Weight, Measure. – A declaration of quantity for an e-commerce product or package shall be expressed in units according to the provisions of the UPLR (add appropriate reference), the applicable Method of Sale Regulation (add appropriate reference) or the applicable regulation(s) of another regulatory agency. Generally, declarations are to follow the requirements detailed below

- (a) **in units of weight shall be in terms of the avoirdupois pound or ounce;**
- (b) **in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid quart, liquid pint, or fluid ounce subdivisions of the gallon and shall express the volume at 68 °F, except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 60 °F, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 °F, and except also in the case of malt beverages, for which the declaration shall express the volume at 39.1 °F;**
- (c) **in units of linear measure shall be in terms of the yard, foot, or inch;**
- (d) **in units of area measure shall be in terms of the square yard, square foot, or square inch;**
- (e) **in units of volume measure shall be in terms of the cubic yard, cubic foot, or cubic inch; and**
- (f) **in units of dry measure, shall be in terms of the United States bushel of 2150.42 in³, or peck, dry quart, and dry pint subdivisions of the bushel.**
- (g) **Any generally accepted symbol and abbreviation of a unit name may be employed in the quantity statement on a package of commodity**

Section 7. Declaration of Identity: E-commerce Products

7.1. E-commerce Site Requirements – Any e-commerce package offered for sale on an e-commerce site shall be represented or displayed on the e-commerce site with a separate Declaration of Identity statement which details the specific product that the package contains in ordinary terms expressed in the English language. The declaration of identity needs to be specific enough to distinguish between similar types and varieties of products. A manufacturer brand name is not a statement of identity. The declaration shall not be misleading or deceptive.

7.2. The identity declaration shall be in terms of:

- (a) **the name specified in or required by any applicable federal or state law or regulation or, in the absence of this;**
- (b) **the common or usual name or, in the absence of this;**
- (c) **the generic name or other appropriate description, including a statement of function (such as “cleaning powder”).**

7.3. E-Commerce Package Requirements – The same Declaration of Identity shall appear on the product label, on the product, attached to the product or within the product package in a clear and non-misleading fashion when delivered to the purchaser.

Section 8. Declaration of Responsible Party: E-commerce Products

8.1. E-commerce Packages. – Any e-commerce package offered for sale on an e-commerce site which is not owned or operated by the person responsible for the manufacture, packaging, labeling or distributing of the e-commerce package shall specify conspicuously either 1) on the label of the e-commerce package or 2) on

documentation within the e-commerce package if there is no label, marking of the name and address of the product manufacturer, packer, or distributor. The name shall be the actual corporate name, or, when not incorporated, the name under which the business is conducted. The address shall include street address, city, state (or country if outside the United States), and ZIP Code (or the mailing code, if any, used in countries other than the United States); however, the street address may be omitted if it is listed in any readily accessible, well-known, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as “Manufactured for and packed by _____,” “Distributed by _____,” or any other wording of similar import that expresses the facts.

8.2. E-commerce Bulk Products and Select Random Quantity Packages. – All responsibility for bulk e-commerce products and e-commerce random quantity packages bearing no Declaration of Responsible Party information shall be that of the person or entity responsible for the e-commerce site.

8.3. E-commerce Site Requirements. – The operator of an e-commerce site offering products for sale shall comply with at least one of the following requirements regarding each product offered for sale:

- (a) The e-commerce site shall provide the name and address of the product manufacturer, packer or distributor.
- (b) The e-commerce site shall provide the name and website address of the product manufacturer, packer, or distributor.
- (c) The e-commerce site shall provide the product brand name or the name of the product manufacturer, distributor, or packer, when product manufacturer, distributor or packer address information is displayed on the package label at the time the product is delivered to the purchaser.
- (d) When the e-commerce site owner or operator is the also the product manufacturer, packer or distributor, the e-commerce site shall clearly and conspicuously display its name, address and contact information on both the e-commerce site and on the transaction receipt.

Section 9. Product Photograph or Accurate Product Depiction/Representation: E-commerce Site Requirements

9.1. E-commerce Packages. Any e-commerce package offered for sale on an e-commerce site shall be represented on the site with a current photograph of the package offered for sale. As an alternative, a detailed and accurate photographic depiction or representation of the package may be displayed. This picture or graphical representation shall be sufficiently sized, detailed and clear to enable the customer to distinguish this package or product from similar packages including varying sizes, varieties and product functions.

9.2. E-commerce Random Weight Packages. – E-commerce random weight products offered for sale on an e-commerce site shall be accompanied on the site by a representative picture or photographic depiction of product (packaged or unpackaged) which is being offered for sale. This picture or photographic depiction shall be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale.

9.3. E-commerce Bulk Products and Select Random Quantity Packages. – Bulk products offered for sale on an E-commerce site shall be accompanied on the site by a representative picture or photographic depiction of the unpackaged product which is being offered for sale. Products packaged in random quantity packages shall

be displayed on the site with a representative depiction of the representative package, a clear and conspicuous statement explaining that packaged products are of random quantity, and instructions to customers regarding the means to specify a maximum or minimum package quantity in ordering and purchasing the product. The picture(s) or photographic depiction(s) shall be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale.

9.4. E-commerce Non-Consumer Packages. – Non-consumer products offered for sale on an e-commerce site shall be accompanied on the site by a representative picture or photographic depiction of the product which is being offered for sale. This picture or photographic depictions shall be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale

9.5. Pictures on Receipts: Transaction receipts are not required to provide pictures or photographic depictions

Section 10. Prominence and Placement of Required Information on E-commerce Sites: Offering E-commerce Products for Sale

10.1. General. – All information required to appear on the e-commerce site which offers products for sale shall appear thereon in the English language and shall be prominent, definite, plain, and conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

10.1.1. Location. – The required e-commerce site declarations of:

- (a) identity,
- (b) net quantity,
- (c) product price,
- (d) brand or manufacturer name and
- (e) package picture or photographic representation/depiction shall appear within the top 50 % of the screen in which the product appears.

10.1.2. Style of Type or Lettering – The required e-commerce site declarations shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the screen.

10.1.3. Color Contrast. – The required e-commerce site declarations shall be in a color that contrasts conspicuously with its background.

10.1.4. Package Picture or Photographic Representation. – The product picture or photographic depiction shall be in the actual colors of the package or product. Slight variations in color shading are acceptable.

10.2. Combined Declarations of Required Information. – One or more of the required e-commerce site declarations can be combined if the resulting statement is clear and not misleading. This shall not apply to product photograph or photographic representation. Combined declarations shall be of a consistent size same size and font, excepting the product price which may be in a larger size and a different font.

10.2.1. Combined Declarations of Required Information – The declarations of identity, net quantity, product price and/or brand or manufacturer name can be combined into a single statement on an e-

commerce site provided the information is clear and not misleading. A combined statement may appear on a single line or multiple lines as illustrated below:

Examples:

1 kg (2.2 LB) Brand X Laundry Detergent \$4.99

Brand X

Laundry Detergent

1 kg (2.2 LB)

\$4.99

10.2.2. Free Area – The area surrounding a required individual or combined declaration on an e-commerce site shall be free of printed information:

(a) above and below, by a space equal to at least the height of the lettering in the declaration; and

(b) to the left and right, by a space at least equal to twice the width of the letter “N” of the style and size of type

10.3. Alternate Languages. – An e-commerce site may provide product information in one or more languages in addition to English. When an e-commerce site does provide any required product information in an additional language, all the required information specified in this regulation must be provided in that additional language or languages.

Section 11. Prominence and Placement: Delivered E-commerce Packages, Products and Receipts

11.1. General. – All information required to appear on an e-commerce package, product, or receipt shall appear thereon in the English language and shall be prominent, definite, plain, and conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

11.2. Packages Intended for Sale in Retail Locations–A package properly labeled to comply with the retail shelf requirements of the UPLR will also comply with the e-commerce package label requirement.

11.3. Orientation of Required Declarations. – The required declarations on packages, products, or receipts shall be presented in such a manner as to be generally consistent to the orientation of the label or package.

Section 12. Effective Date

This regulation shall become effective on _____.

Given under my hand and the seal of my office in the City of _____ on this _____ day of _____.

Signed _____

Previous Action:

N/A

Original Justification:

While e-commerce continues to grow and evolve, most people, entities and regulators are trying to extrapolate existing requirements to these sites and products involved with e-commerce – with varying degrees of success. This regulation is intended to be a foundation for e-commerce regulation, focusing just on basic requirements such as the name of the item, the net quantity of the item, and the price of the item.

Some may argue that existing regulations are good enough, NCWM should wait for other Federal Agencies to take the lead, Companies may have to change their sites or products to comply.

Arguments in Favor:

Regulatory:

-

Industry:

-

Advisory:

-

Arguments Against:

Regulatory:

-

Industry:

-

Advisory:

-

Neutral Comments:

Regulatory:

-

Industry:

-

Advisory:

-

Item Development:

New

Regional Associations' Comments:

CWMA Report - OTH-22.1
<p>Regional recommendation to NCWM on item status:</p> <p> <input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input checked="" type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i> </p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Chris Guay, Chair of PALS commented that this is a new effort that was originally intended as a guidance document but has evolved into a stand-alone model regulation. He reviewed the main components of the proposed language. PALS recommends this item move to Informational status for further input. Lisa Warfield, NIST Technical Advisor commented that OWM recommends that PALS develop a strategy to reach out to stakeholders and invite them to participate in the development of this item. She asks the Committee to consider the NIST analysis for this item which was submitted to NCWM and CWMA L&R Committee members. The Committee recommends this item be given informational status for stakeholder input.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

OTH-07.1 D Fuels and Lubricants Subcommittee

Source:

NCWM Fuels and Lubricants Subcommittee (FALS)

Purpose:

Provide an update of the activities of this Subcommittee which works on direction from and reports to the L&R Committee. The mission of FALS is to assist the L&R Committee in the development of agenda items that affect Handbook 130, Uniform Fuels and Automotive Lubricants Inspection Law and Uniform Fuels and Automotive Lubricants Regulation. The Subcommittee consists of regulators and associate members who have subject matter expertise in the area of fuels and lubricants. The Subcommittee will be called upon to aid in the development, provide guidance, and help establish NCWM position on items concerning fuels and lubricants.

Item Under Consideration:

N/A

Background/Discussion:

This item is to provide a report on the activities of the Fuels and Lubricants Subcommittee (FALS) which reports and provides recommendations to the Laws and Regulations Committee.

For more information or to provide comment, please contact the FALS Chair:

Mr. Bill Striejewski
 Nevada Department of Agriculture, Bureau of Petroleum Technology
 775-353-3792, wstriejewski@agri.state.nv.us

FALS met in a hybrid fashion, with attendees both in-person and via web conferencing at the 2021 NCWM Annual Meeting in Rochester, New York on Sunday, July 18, 2021, to review items related to fuel and automotive fluid standards that appear on the L&R agenda. FALS discussed the item block that has been assigned to them. There was also discussion of one item with Voting status that has been impacted by events since the Interim Meeting in January. There were also updates on four existing FG's, including one on the recently finalized EPA Streamlining Rule. There was a presentation given on the work and results of this FG. Three of the FG's (all but the group working on Item Block 6) were disbanded before or during the NCWM 2021 Annual Meeting. The following is a summary of the remaining item mentioned above.

Item Block 6 Transmission Fluid Focus Group (B6: MOS-21.1. Section 2.36.2. Labeling and Identification of Transmission Fluid and B6: FLR-21.2. Section 3.14.1. Labeling and Identification of Transmission Fluid): FG Chair Joanna Johnson, (on behalf of the Automotive Oil Change Association (AOCA)) provided an update on the work of the FG, since its formation in January 2021, and Mr. Ron Hayes (retired Missouri) also provided information on an OEM specification table that is being developed. While the model regulation in NIST Handbook 130 is sufficient, there is no licensing system for transmission fluid as there is with engine oils. The FG is continuing its work to harmonize the various standards across the industry.

Regional Associations' Comments:

WWMA and SWMA 2020 Annual Meetings: There were no updates.

NEWMA 2020 Interim Meeting: There were no updates.

CWMA 2021 Annual Meeting: No comments were heard during open hearings. The Committee encourages the FALS EPA Streamlining Rule focus group to continue its efforts to harmonize HB130 with the new EPA Streamlining Rule

CWMA Report - OTH-07.1
<p>Regional recommendation to NCWM on item status:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>Randy Jennings, FALS Vice-chair commented that there are many items on the FALS agenda, and that the subcommittee had adopted a Standard Operating Procedure that will guide its work moving forward.</p>

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

OTH-11.1 D Packaging and Labeling Subcommittee

Source:

NCWM Packaging and Labeling Subcommittee (PALS)

Purpose:

Provide an update of the activities of this Subcommittee which reports to the L&R Committee. The mission of PALS is to assist the L&R Committee in the development of agenda item, NCWM positions and new standards related to packaging and labeling. The Subcommittee will also be called upon to provide important and much needed guidance to the regulatory and consumer packaging communities on difficult questions. PALS will report to NCWM L&R Committee. The Subcommittee is comprised of a Chair, eight voting members, and anyone interested in packaging and labeling standards.

Item Under Consideration:

N/A

Background/Discussion:

This item is to provide a report on the activities of the Packaging and Labeling Subcommittee which reports and provides recommendations to the Laws and Regulations Committee.

For more information or to provide comment, please contact the PALS Chair:

Mr. Chris Guay
CGGT
[513-652-6597, guay.cb@gmail.com](mailto:guay.cb@gmail.com)

PALS is comprised of four voting regulatory officials (one from each region) and four voting members from industry (retailers and manufacturers) in addition to its Chair and NIST Technical Advisor. Members of NCWM can participate in the PALS meetings by contacting Chair Guay. PALS work is being developed through monthly webinar meetings and at the NCWM meetings. PALS members are responsible for providing updates at their Regional Meetings. Chair Guay added PALS will be developing proposals and in addition providing guidance and recommendations on existing proposals as assigned by the NCWM L&R Committee. He stressed the importance of having key federal agencies (FDA, FTC, and USDA) participating.

NCWM 2020 Interim Meeting: PALS Chair, Mr. Chris Guay, reported that PALS is continuing to draft a proposed regulation and accompanying “Best Practice” document regarding products sold via e-commerce. The focus of this document is to help provide more clarity on the information necessary for consumers to make informed product choices on-line and for consumers to confirm receipt of the products ordered. PALS currently believes certain information is better included in a regulation while other information is better provided as guidance or Best Practice document. The Subcommittee will work on development of this proposed regulation and proposed guidance in the spring of 2020 with a target to have a draft proposal prepared by the 2020 NCWM Annual meeting. Separately, PALS believes the text of “Recommended Best Practice” for quantity expressions is complete. PALS is developing an illustrative appendix with graphics support being provided by the NCWM office. PALS is planning to have the “Recommended Best Practice” Document for quantity related expressions appearing on a principal display panel and the proper declaration of net quantity completed by the summer of 2021. The document has been completed and the work continues as an illustrative appendix.

PALS reviewed the framework for a proposed Handbook 130 regulation regarding products sold through e-commerce. This regulation would focus on ensuring buyers have sufficient information to make an accurate product selection and

value comparison at the time of purchase, while also ensuring the buyer can confirm the product purchased is the product they actually receive. PALS plans to make this proposal its priority for 2021.

NCWM 2021 Annual Meeting: PALS reviewed a developing draft regulation pertaining to websites which offer products for sale through e-commerce, and to products which are sold and delivered as a result of an e-commerce purchases. PALS received comments from those in attendance at the PALS work session and they believe the next step should be to forward this proposal to regions for broader stakeholder review and comment. PALS plans to submit a proposal for this item to obtain comments at the 2021 Fall Regional Association Meetings.

Regional Associations' Comments:

WWMA and SWMA 2020 Annual Meetings: There were no comments.

NEWMA 2020 Interim Meeting: There were no comments.

CWMA 2021 Annual Meeting: There were no comments.

CWMA Report - OTH-11.1
Regional recommendation to NCWM on item status:
<input type="checkbox"/> Recommend as a Voting Item on the NCWM agenda <input type="checkbox"/> Recommend as an Information Item on the NCWM agenda <input type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda <i>(To be developed by an NCWM Task Group or Subcommittee)</i> <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda <i>(To be developed by source of the proposal)</i> <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda <i>(In the case of new proposals, do not forward this item to NCWM)</i> <input type="checkbox"/> No recommendation from the region to NCWM <i>(If this is a new proposal, it will not be forwarded to the national committee by this region)</i>
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)
Chris Guay, Chair of PALS invited participation from CWMA members interested in packaging and labeling.

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <https://www.ncwm.com/publication-15> to review these documents.

Mr. Mike Boehler, Nebraska | Committee Chair
Mr. Travis Soper, Wisconsin | Member
Mr. Mike Harrington, Iowa | Member
Ms. Rebecca Richardson, National Biodiesel Board | AMC Representative
Mr. Doug Rathbun, Illinois | NCWM Representative

Laws and Regulations Committee