

SWMA Laws and Regulations (L&R) Committee 2019 Annual Meeting Report

Mr. Mauricio Mejia, Committee Chair
Florida

INTRODUCTION

The Laws and Regulations (L&R) Committee (hereinafter referred to as “Committee”) submits its Report to the Southern Weights and Measures Association (SWMA). The Report consists of the SWMA 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 SWMA and its recommendations to the NCWM Laws and Regulations Committee.

Subject Series List

NIST 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
NIST Handbook 133.....	NET Series
Other Items	OTH Series

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Glossary of Acronyms and Terms

Acronym	Term	Acronym	Term
ASTM	ASTM International	NIST	National Institute of Standards and Technology
CFR	Code of Federal Regulations	OWM	Office of Weights and Measures
CNG	Compressed Natural Gas	PALS	Packaging and Labeling Subcommittee
CWMA	Central Weights and Measures Association	S&T	Specifications and Tolerances
FALS	Fuels and Lubricants Subcommittee	SAE	Society of Automotive Engineers
L&R	Laws and Regulations	SWMA	Southern Weights and Measures
LNG	Liquefied Natural Gas	UPLR	Uniform Packaging and Labeling Regulation
NCWM	National Conference on Weights and Measures	USNWG	U.S. National Work Group
NEWMA	Northeastern Weights and Measures Association	WWMA	Western Weights and Measures Association

Details of All Items
(In order by Reference Key)

ITEM BLOCK 1 (B1) HB 130, UPLR, SEC. 2.8. MULTIUNIT PACKAGE. HB133, 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 D Handbook 130 Uniform Packaging and Labeling Regulation: Section 2.8. Multiunit Package
 B1: NET-19.1 D Handbook 133: Section 1.2.4. Maximum Allowable Variation
 B1: NET-19.2 D Handbook 133: 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 D Handbook 133: Create a Chapter 5, Specialized Test Procedures
 B1: NET-19.10 D Handbook 133, Appendix F. Glossary

(B1:NET-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 D Handbook 130, Uniform Packaging and Labeling Regulation, Section 2.8. Multiunit Package

Source:
NIST OWM

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 NIST 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 D Handbook 133, 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 NIST 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. 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.

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

Total Quantity Package Error = Sum of Individual Inner Package Errors

(Amended 2010 and 20XX)

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

a. Multiunit Package. – Regarding the 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:

Total Quantity MAV = Number of Individual Inner Packages × 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. – Regarding the 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 typically include several different types of similar products with various net quantity declarations. While the commodities may be generically similar, they can differ in weight, measure, volume, or appearance. For these packages a Total Quantity MAV is calculated for each product type 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 proper Table of MAVs in Appendix A. “Tables.”

B1: NET-19.2 D Handbook 133, Sections 2.1. Scope, 3.1. Scope, 4.1. Scope and 2.3.7.1. Maximum Allowable Variation (MAV) Requirement

Purpose:

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

Item Under Consideration:

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

Add a Note to HB133, 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, see Chapter 5. “Specialized Test Procedures” for guidance in testing these types of packages. If a total quantity declaration is to be verified and the MAV to be applied is not based on a percentage of the labeled quantity, see also Section 1.2.4.1. “Total Quantity MAV for Multiunit and Variety Packages.

And

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 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.

B1: NET-19.3 D Handbook 133, Create a Chapter 5. Specialized Test Procedures

Purpose:

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

Item Under Consideration:

Amend NIST Handbook 133, Chapter 5 as follows:

5.1. Scope

The following procedures are for use in verifying the net quantity of contents of multiunit packages with individual inner packages that have the same commodity and identically labeled quantities in verifying variety packages with individual inner packages that differ in labeled weight, measure or volume. The procedure used is determined by the package label. If a total net quantity of contents is not declared on the package label, use Section 5.2. Individual Package Quantity. If a total net quantity of contents is declared on the package, use Section 5.3. Total Quantity. If the packages are labeled with other or additional quantity statements (i.e., dry volume, area, length, width, or thickness), added steps or, when proper, additional Total Quantity MAVs may be required.

5.2. Individual Package Quantity

This procedure is used to test open or transparent multiunit packages with no total net quantity declaration on the package label. For these packages, the labeled net quantity is visible on each individual inner package and they are identical (See Figure 1. Multiunit Package with Individual Quantity Declarations [which contains two rows of packages]).

Cereal	Cereal	Cereal	Cereal	Cereal
Net Wt 100 g	Net Wt 100 g	Net Wt 100 g	Net Wt 100 g	Net Wt 100 g

Figure 1. Multiunit Package with Individual Quantity Declarations (which contains two rows of packages)

5.2.1. Test Procedure

1. Follow Section 2.3.1. "Define the Inspection Lot" which is the total number of individual inner packages in the multiunit packages (e.g., if there are 120 packages and each contains 12 individual inner packages, the Inspection Lot size is 1440). Use this number with Category A or Category B. to find the sample size (See Section 2.3.2. "Select Sampling Plans"). Select a random sample (See Section 2.3.4. "Random Sample Selection").
2. At least two of the individual inner packages are opened to determine an average tare weight (See Section 2.3.5. "Procedures for Determining Tare"). The Average Tare Weight is added to the labeled quantity to obtain a Nominal Gross Weight (See Section 2.3.6. "Determine Nominal Gross Weight and Package Errors") which is used to determine package errors.
3. The net quantity of each individual inner package in the sample is determined. If a count declaration appears on the multiunit packages, it should be verified (See Section 4.2. "Packages Labeled by Count") and the appropriate MAV for the count from 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 looking up the quantity for the individual inner packages (See Appendix A "Tables"). The MAV for the labeled quantity is compared to each minus package error in the individual inner packages to determine if any are unreasonable (See 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 or 2-2, Column 4), the sample fails. If the sample passes, go to Step 5.
5. Apply Section 2.3.7.2. "Average Requirement." The sample passes or fails depending on the results of the evaluation conducted according to Section 2.3.7. "Evaluation for Compliance."

5.3. Total Quantity

Use this procedure to test multiunit packages labeled with a 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.

5.3.1. Test Procedure

1. Follow Section 2.3.1. "Define the Inspection Lot" which is the number of multiunit packages. Use this number with Category A or Category B. to find the sample size (See Section 2.3.2. "Select Sampling Plans"). Select a random sample (See Section 2.3.4. "Random Sample Selection").

2. For packages labeled by weight, determine the tare weight of at least two multiunit packages using Section 2.3.5. “Procedures for Determining Tare”. The average tare weight is added to the labeled weight to obtain a nominal gross weight (See Section 2.3.6. “Determine Nominal Gross Weight and Package Error”). This is used to determine errors in 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.

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

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

If needed, 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 package errors are found in the sample, look up and 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 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 of the errors are unreasonable (See Section 2.3.7.1. “MAV Requirement”). If the number of unreasonable errors exceeds the amount allowed for the sample size the sample fails. (See Section 2.3.1. “Define the Inspection Lot” and Tables 2-1 or 2-2, Column 4). If the sample passes go to Step 6.

6. Apply Section 2.3.7.2. “Average Requirement.” The sample passes or fails depending on the results of the evaluation conducted according to Section 2.3.7. “Evaluation for Compliance.”

5.4. Exceptions

5.4.1. Multiunit Packages with Only a Total Quantity Declaration

In NIST HB 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]. Section 10.4. Multiunit Packages also permits multiunit packages to include an optional statement of the count of the individual inner packages even when the regulations do not require such a statement.

Floor Cleaner	Floor Cleaner	Floor Cleaner
	NET WEIGHT 15 kg	

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

5.4.1.1. MAV Application

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

5.4.2. Variety Packages: Non-Uniform Quantity Declarations

Uniform Packaging and Labeling Regulation, Section 10.6. Variety Packages states that a variety package is required to have total quantity declaration. While the commodities may be generically similar, they can differ in weight, measure, volume, or appearance. When the labeled weight, measure or count varies, the value of the 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 label for a variety package of candy bars 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</u>	
<u>10 – 55 g Peanut Butter Cups</u>	<u>6 – 30 g Dark Chocolate Bars</u>
<u>6 – 46 g Milk Chocolate Bars with Almonds</u>	<u>8 – 41 g Milk Chocolate Bars</u>

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

5.4.3. Test Procedure

1. When this type of variety package 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.

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

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

The MAV used to determine if any minus Total Quantity Package Error is unreasonable is to be calculated. The MAVs applied are based on the labeled quantities of each product type and are calculated (i.e., the number of individual inner packages of each product type is multiplied by their count) and these are summed to obtain the Total Quantity MAV (See example shown in Table 1. Steps in Calculating a MAV for a Variety Package).

5.4.3.1. 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 the MAV for 1.33 kg

is 42.6 g but the “Total Quantity MAV” to be applied is 122.4 g (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>Item</u>	<u>Product</u>	<u>Number in Package</u>	<u>Net Weight</u>	<u>MAV for Net Quantity</u>	<u>Total Quantity MAV</u>
<u>1</u>	<u>Peanut Butter Cups</u>	<u>10</u>	<u>55 g</u>	<u>5.4 g</u>	<u>$10 \times 5.4 = 54 \text{ g}$</u>
<u>2</u>	<u>Dark Chocolate Bars</u>	<u>6</u>	<u>30 g</u>	<u>10 % of labeled quantity</u>	<u>$6 \times (0.1 \times 30) = 18 \text{ g}$</u>
<u>3</u>	<u>Milk Chocolate Bars</u>	<u>8</u>	<u>41 g</u>	<u>3.6 g</u>	<u>$8 \times 3.6 = 28.8 \text{ g}$</u>
<u>4</u>	<u>Milk Chocolate Bars with Almonds</u>	<u>6</u>	<u>46 g</u>	<u>3.6 g</u>	<u>$6 \times 3.6 = 21.6 \text{ g}$</u>
				<u>Total Quantity MAV</u>	<u>122.4 g</u>

(Added 20XX)

B1: NET-19.4 D Handbook 133, Appendix F. Glossary

Purpose:

This will add definitions for language being placed into a NIST Handbook 133 regarding multiunit packages.

Item Under Consideration:

Amend NIST 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 the same, but that differ in weight, measure, volume, appearance, or quality, are considered similar, but not identical.

Total Quantity MAV. – A calculated value used to determine if each minus Total Quantity Package Error found in multiunit and variety packages are unreasonable. A Total Quantity MAV is based on the declared quantity and count of the individual inner packages. It is determined by looking up MAV for the individual inner package quantity (See appropriate table of MAVs in Appendix A “Tables” of NIST HB 133) and then calculating the “Total Quantity MAV” as follows:

Total Quantity MAV = Number of Individual Inner Packages × MAV for Individual Inner Package Quantity

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

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

Total Quantity Package Error = Sum of Individual Inner Package Errors

1 **Background/Discussion:** See Appendix A, Page L&R-A90.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports) <p>In B1:NET 19.1. Section 1.2.4. there is an error in the report and the language appearing with double-strikethru needs to be removed.</p> <p>1.2.4. Maximum Allowable Variation</p> <p>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. <u>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.</u></p> <p>In B1:NET19.2. the Header title needs to be amended to include 2.7.3. “Evaluation Results.”</p> <p>For clarity purposes 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.</p> <p>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.</p> <p>For the reasons mentioned above the Committee is recommending this as a Developing item.</p>

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

PAL – UNIFORM PACKAGING AND LABELING REGULATION

PAL-20.1 6.12. Supplementary Quantity Declarations and 6.14. Qualification of Declaration Prohibited.

Source:

Morris County, NJ Division of Weights and Measures

Purpose:

(a) improve the current language through selection or arrangement of words and eliminate potentially misleading words that may cause dissonance in interpretation or resolution of the true intended meaning supporting the originally developed language (b) to give industry practitioners and law enforcement a clear interpretation behind the application and language provided in section 6.12. Supplementary Quantity Declarations and (c) offer additional examples to accurately reinforce consistent interpretation.

Item Under Consideration:

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

6.12. Supplementary Quantity Declarations. – The required quantity declaration may be supplemented by one or more declarations of quantity (unit of weight, measure, or count) ~~such declaration~~ appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any word or term qualifying a unit of weight, measure, or count as specified in section 6.14 (Qualification of Declaration Prohibited) ~~that tends to exaggerate the amount of commodity contained in the package (e.g., “giant” quart, “larger” liter, “full” gallon, “when packed,” “minimum,” [NOTE 5, page 71] or words of similar import).~~ (Amended 2018)

And

6.14. Qualification of Declaration Prohibited. – In no case shall any declaration of quantity (unit of weight, measure or count) be qualified by the addition of the words “when packed,” “approximately,” “about,” “minimum,” [NOTE 5, page 71] “over,” “under,” “more than,” or “not less than” or any words of similar import; ~~(e.g., “approximately”), nor~~ In no case shall any unit of weight, measure, or count be qualified by any term (such as “jumbo,” “giant,” “full,” or the like) that tends to exaggerate (more or less) or understate the amount of commodity. (Amended 1998 and 2018)

Background/Discussion: See Appendix A, Page L&R-A92.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input checked="" type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)

Three regulators wanted this item to be Withdrawn. Chris Guay stated that FDA does not see this as a supplemental statement. The Committee does not see the point in the change being made by the submitter. The SWMA is recommending this item be Withdrawn.

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

MOS – UNIFORM REGULATION FOR THE METHOD OF SALE OF COMMODITIES

MOS-18.2 A Reorganize the Method of Sale of Commodities and create a section for Fuels, Lubricants and Automotive Products

Source:

Fuels and Lubricants Subcommittee (original submitter Archer Daniels Midland Corporation {ADM})

Purpose:

Originally when this this proposal was submitted by Archer Danial Midland it was to harmonize the method of sale for kerosene between the Uniform Regulation for the Method of Sale of Commodities and the Uniform Engine Fuels and Automotive Lubricants Regulation. This Item has been assigned to FALS to be further developed as follows:

- To allow for easier navigation, understanding and use within the Method of Sale Regulation.
- Move all Fuels, Lubricants, and Automotive Products from “Section 2. Non-Food Products,” to a new subsection within Section 2 titled” Fuels, Lubricants, and automotive products”.
- Add reference in the new section for definitions, specifications, and identifications.
- Add reference to the Method of Sale Law to individual items missing a method of sale.
- Renumbering of the remaining products within the method of sale regulation.

Item Under Consideration:

B. Uniform Regulation for the Method of Sale of Commodities

1. Background

The National Conference on Weights and Measures (NCWM) has long been concerned with the proper units of measurement to be used in the sale of all commodities. This approach has gradually broadened to concerns of standardized package sizes and general identity of particular commodities. Requirements for individual products were at one time made a part of the Weights and Measures Law or were embodied in separate individual Model Regulations. In 1971, this “Model State Method of Sale of Commodities Regulation” was established (renamed in 1983); amendments have been adopted by the Conference almost annually since that time.

Sections with “added 1971” dates refer to those sections that were originally incorporated in the Weights and Measures Law or in individual Model Regulations recommended by the NCWM. Subsequent dates reflect the actual amendment or addition dates.

The 1979 edition included, for the first time, requirements for items packaged in quantities of the International System of Units (SI), the modernized metric system, as well as continuing to present requirements for U.S. customary quantities. It should be stressed that nothing in this Regulation requires changing to the SI system of measurement. SI values are given for the guidance of those wishing to adopt new SI quantities of the commodities governed by this Regulation. SI means the International System of Units as established in 1960 by the General Conference on Weights and Measures and interpreted or modified for the United States by the Secretary of Commerce.

In 1984 the NCWM adopted a section in the Uniform Regulation for the Method of Sale of Commodities requiring that motor fuel containing alcohol be labeled to disclose to the retail purchaser that the fuel contains alcohol. The delegates deemed this action necessary since motor vehicle manufacturers were qualifying their warranties with respect to some gasoline-alcohol blends, motor fuel users were complaining to weights and measures officials about fuel quality and vehicle performance, and the American Society for Testing and Materials (ASTM) had not yet finalized quality standards for oxygenated (which includes alcohol-containing) fuels. While many argued that weights and measures officials should not cross the line from quantity assurance programs to programs regulating quality, the delegates were persuaded that the issue needed immediate attention. (See NIST Handbook 130, Uniform Fuels and Automotive Lubricants Inspection Law)

A Motor Fuels Task Force was appointed in 1984 to develop mechanisms for achieving uniformity in the evaluation and regulation of motor fuels. The Task Force developed the Uniform Motor Fuel Inspection Law (NIST Handbook 130, Uniform Fuels and Automotive Lubricants Inspection Law) and the Uniform Fuel and Automotive Lubricants Regulation to accompany the law. The Uniform Regulation for Fuels and Automotive Lubricants was adopted by the NCWM in 1995. (See NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation.)

In 20XX the NCWM determined that the fuels, lubricants, and related products should be consolidated within the non-food products section. For products that did not have a method of sale listed a reference to the method of sale law was added.

This Regulation assimilates all of the actions periodically taken by the Conference with respect to certain food items, non-food items, and general method of sale concepts. Its format is such that it will permit the addition of individual items at the end of appropriate sections as the need arises. Its adoption as a regulation by individual jurisdictions will eliminate the necessity for legislative consideration of changes in the method of sale of particular commodities. Such items will be able to be handled through the normal regulation-making process.

2. Status of Promulgation

The table beginning on page 6 shows the status of adoption of the Uniform Regulation for the Method of Sale of Commodities.

*The National Conference on Weights and Measures (NCWM) is supported by the National Institute of Standards and Technology (NIST) in partial implementation of its statutory responsibility for “cooperation with the states in securing uniformity in weights and measures laws and methods of inspection.”

Section 2. Non-Food Products ^[NOTE 1, page 103]

~~2.19. Kerosene (Kerosine).—All kerosene kept, offered, exposed for sale, or sold shall be identified as such and will include, with the word kerosene, an indication of its compliance with the latest version of the standard specification ASTM Standard D3699, “Standard Specification for Kerosine.”~~

Example:

~~1K Kerosene; Kerosene—2K.~~
(Added 1983)

~~2.19.1. Retail Sale from Bulk.—All kerosene kept, offered, or exposed for sale and sold from bulk at retail shall be in terms of the gallon or liter.~~

(Added 2012)

2.20. Gasoline Oxygenate Blends.

~~2.20.1. Method of Retail Sale.—Type of Oxygenate must be Disclosed.—All automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing at least~~

~~1.5 mass percent oxygen shall be identified as “with” or “containing” (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read “contains ethanol” or “with MTBE.” The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase “or other ethers” or alternatively post the phrase “contains MTBE or other ethers.” In addition, gasoline-methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as “with” or “containing” methanol. This information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver’s position in a type at least 12.7 mm (½ in) in height, 1.5 mm (⅛ in) stroke (width of type).~~

~~(Amended 1996)~~

~~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 when the fuel contains ethanol.~~

~~(b) For fuels that do not contain ethanol, information that complies with 40 CFR 80.1503 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)~~

~~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. (For additional information, refer to Section 2.30.2. FTC Labeling Requirements.)~~

~~(Added 2018)~~

~~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.~~

~~(Added 1986)~~

~~NOTE 7: Sources: American National Standards Institute, Inc., “American National Standard for Gas Displacement Meters (500 Cubic Feet per Hour Capacity and Under),” First edition, 1974, and NIST Handbook 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.”~~

~~2.27. Retail Sales of Natural Gas Sold as a Vehicle Fuel.~~

~~2.27.1. Definitions.~~

~~2.27.1.1. Compressed Natural Gas (CNG). A gaseous fuel composed primarily of methane that is suitable for compression and dispensing into a fuel storage container(s) for use as an engine fuel.~~

~~(Amended 2016)~~

~~2.27.1.2. Gasoline Gallon Equivalent (GGE).—Gasoline gallon equivalent (GGE) means 2.567 kg (5.660 lb) of compressed natural gas.~~
(Amended 2016)

~~2.27.1.3. Diesel Gallon Equivalent (DGE).—Diesel gallon equivalent means 6.384 lb of compressed natural gas or 6.059 lb of liquefied natural gas.~~
(Added 2016)

~~2.27.1.4. Liquefied Natural Gas (LNG).—Natural gas, which is predominantly methane, that has been liquefied at 162 °C (– 260 °F) at 14.696 psia and stored in insulated cryogenic fuel storage tanks for use as an engine fuel.~~
(Added 2016)

~~2.27.2. Method of Retail Sale and Dispenser Labeling.~~

~~2.27.2.1. Method of Retail Sale for Compressed Natural Gas.—All compressed natural gas kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass, and indicated in the gasoline gallon equivalent (GGE), diesel gallon equivalent (DGE) units, or mass.~~
(Amended 2016)

~~2.27.2.2. Dispenser Labeling Compressed Natural Gas.—All retail compressed natural gas dispensers shall be labeled with the equivalent conversion factor in terms of pounds (lb). The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement “1 Gasoline Gallon Equivalent (GGE) means 5.660 lb of Compressed Natural Gas” or “1 Diesel Gallon Equivalent (DGE) means 6.384 lb of Compressed Natural Gas” consistent with the method of sale used.~~
(Amended 2016)

~~2.27.2.3. Method of Retail Sale for Liquefied Natural Gas.—All liquefied natural gas kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in mass and indicated in diesel gallon equivalent (DGE) units or mass.~~
(Added 2016)

~~2.27.2.4. Dispenser Labeling of Retail Liquefied Natural Gas.—All retail liquefied natural gas dispensers shall be labeled with the equivalent conversion factor in terms of pounds (lb). The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement “1 Diesel Gallon Equivalent (DGE) means 6.059 lb of Liquefied Natural Gas.”~~
(Added 2016)

~~2.30. Ethanol Flex Fuel.~~

~~2.30.1. How to Identify Ethanol Flex Fuel.—Ethanol flex fuel shall be identified as “Ethanol Flex Fuel or EXX Flex Fuel.”~~

~~2.30.2. FTC Labeling Requirements.—Ethanol flex fuel shall be identified and labeled in accordance with the Federal Trade Commission Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR 306, as amended. (For additional information, refer to Section 2.20.3. EPA Labeling Requirements.)~~
(Added 2007) (Amended 2014 and 2018)

~~2.31. Biodiesel and Biodiesel Blends.~~

~~2.31.1. Identification of Product.—Biodiesel shall be identified by the term “Biodiesel” with the designation “B100.” Biodiesel Blends shall be identified by the term “Biodiesel Blend.”~~

~~2.31.2. Labeling of Retail Dispensers.~~

~~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.~~

~~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.~~

~~2.31.2.3. Automotive Fuel Rating. Biodiesel and biodiesel blends shall be labeled with its automotive fuel rating in accordance with 16 CFR 306.~~

~~2.31.2.4. Biodiesel Blends. When biodiesel blends greater than 20 % by volume are offered by sale, each side of the dispenser where fuel can be delivered shall have a label conspicuously placed that states "Consult Vehicle Manufacturer Fuel Recommendations." The lettering of this legend shall not be less than 6 mm (¼ in) in height by 0.8 mm (1/32 in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.~~

~~2.31.3. Documentation for Dispenser Labeling Purposes. The retailer shall be provided, at the time of delivery of the fuel, a declaration of the volume percent biodiesel on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.~~

~~2.31.4. Exemption. Biodiesel blends that contain less than or equal to 5 % biodiesel by volume are exempt from the requirements of Sections 2.31.1. Identification of Product, 2.31.2. Labeling of Retail Dispensers, and 2.31.3. Documentation for Dispenser Labeling Purposes when it is sold as diesel fuel.~~

~~(Added 2008)~~

~~2.32. Retail Sales of Hydrogen Fuel (H).~~

~~2.32.1. Definitions for Hydrogen Fuel. A fuel composed of molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.~~

~~(Amended 2012)~~

~~2.32.2. Method of Retail Sale and Dispenser Labeling. All hydrogen fuel kept, offered, or exposed for sale and sold at retail shall be in mass units in terms of the kilogram. The symbol for hydrogen vehicle fuel shall be the capital letter "H" (the word Hydrogen may also be used).~~

~~2.32.3. Retail Dispenser Labeling.~~

~~(a) A computing dispenser must display the unit price in whole cents on the basis of price per kilogram.~~

~~(b) The service pressure(s) of the dispenser must be conspicuously shown on the user interface in bar or the SI unit of pascal (Pa) (e.g., MPa).~~

~~(c) The product identity must be shown in a conspicuous location on the dispenser.~~

~~(d) National Fire Protection Association (NFPA) labeling requirements also apply.~~

~~(e) Hydrogen shall be labeled in accordance with 16 CFR 309 FTC Labeling Alternative Fuels.~~

~~2.32.4. Street Sign Prices and Advertisements.~~

~~(a) The unit price must be in terms of price per kilogram in whole cents (e.g., \$3.49 per kg, not \$3.499 per kg).~~

~~(b) The sign or advertisement must include the service pressure (expressed in megapascals) at which the dispenser(s) delivers hydrogen fuel (e.g., H35 or H70).~~

~~(Added 2010)~~

~~2.33. Oil.~~

~~2.33.1. Labeling of Vehicle Engine (Motor) Oil.—Vehicle engine (motor) oil shall be labeled.~~

~~2.33.1.1. Viscosity. The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank, and any invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank, shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with SAE International’s latest version of SAE J300, “Engine Oil Viscosity Classification.”~~

~~*NOTE: If an invoice or receipt from service on an engine has limited room for identifying the viscosity, brand, and service category, then abbreviated versions of each may be used on the invoice or receipt and the letters “SAE” may be omitted from the viscosity classification.*~~

~~(Note added 2014)~~

~~(Amended 2014)~~

~~2.33.1.2. Brand. The label on any vehicle engine (motor) oil container and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle engine (motor) oil.~~

~~(Amended 2014)~~

~~2.33.1.3. Engine Service Category.—The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the engine service category, or categories, displayed in letters not less than 3.18 mm (1/8 in) in height, as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”),” API Publication 1509, “Engine Oil Licensing and Certification System,” European Automobile Manufacturers Association (ACEA), “European Oil Sequences,” or other Vehicle or Engine Manufacturer standards as approved in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard.~~

~~(Amended 2014)~~

~~2.33.1.3.1. Vehicle or Engine Manufacturer Standard.—The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in letters not less than 3.18 mm (1/8 in) in height. If the vehicle (motor) oil only meets a vehicle or engine manufacturer standard, the label must clearly identify that the oil is only intended for use where specifically recommended by the vehicle or engine manufacturer.~~

~~(Added 2014)~~

~~2.33.1.3.2. Inactive or Obsolete Service Categories.—The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, Appendix A, whenever the vehicle engine (motor) oil in the~~

~~container or in bulk does not meet an active API service category as defined by the latest version of SAE J183, "Engine Oil Performance and Engine Service Classification (Other than "Energy Conserving")." If a vehicle engine (motor) oil is identified as only meeting a vehicle or engine manufacturer standard, the labeling requirements in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard applies.~~

~~(Amended 2014)~~

~~2.33.1.4. Tank Trucks or Rail Cars. Tank trucks, rail cars, and other types of delivery trucks that are used to deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service category or categories on such tank trucks, rail cars, and other types of delivery trucks.~~

~~(Amended 2013 and 2014)~~

~~2.33.1.5. Documentation. When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the quantity of bulk engine (motor) oil delivered as defined in Sections 2.33.1.1. Viscosity; 2.33.1.2. Brand; 2.33.1.3. Engine Service Category; the name and address of the seller and buyer; and the date and time of the sale. For inactive or obsolete service categories, the documentation shall also bear a plainly visible cautionary statement as required in Section 2.33.1.3.2. Inactive or Obsolete Service Categories. Documentation must be retained at the retail establishment for a period of not less than one year.~~

~~(Added 2013) (Amended 2014)~~

~~(Added 2012) (Amended 2013 and 2014)~~

~~2.34. Retail Sales of Electricity Sold as a Vehicle Fuel.~~

~~2.34.1. Definitions.~~

~~2.34.1.1. Electricity Sold as Vehicle Fuel. Electrical energy transferred to and/or stored onboard an electric vehicle primarily for the purpose of propulsion.~~

~~2.34.1.2. Electric Vehicle Supply Equipment (EVSE). The conductors, including the ungrounded, grounded, and equipment grounding conductors; the electric vehicle connectors; attachment plugs; and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of measuring, delivering, and computing the price of electrical energy delivered to the electric vehicle.~~

~~2.34.1.3. Fixed Service. Service that continuously provides the nominal power that is possible with the equipment as it is installed.~~

~~2.34.1.4. Variable Service. Service that may be controlled resulting in periods of reduced, and/or interrupted transfer of electrical energy.~~

~~2.34.1.5. Nominal Power. Refers to the "intended" or "named" or "stated" as opposed to "actual" rate of transfer of electrical energy (i.e., power).~~

~~2.34.2. Method of Sale. All electrical energy kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be in units in terms of the megajoule (MJ) or kilowatt-hour (kWh). In addition to the fee assessed for the quantity of electrical energy sold, fees may be assessed for other services; such fees may be based on time measurement and/or a fixed fee.~~

~~2.34.3. Retail Electric Vehicle Supply Equipment (EVSE) Labeling.~~

~~(a) A computing EVSE shall display the unit price in whole cents (e.g., \$0.12) or tenths of one cent (e.g., \$0.119) on the basis of price per megajoule (MJ) or kilowatt-hour (kWh). In cases where the~~

~~electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of the unit price.~~

~~(b) For fixed service applications, the following information shall be conspicuously displayed or posted on the face of the device:~~

~~(1) the level of EV service expressed as the nominal power transfer (i.e., nominal rate of electrical energy transfer), and~~

~~(2) the type of electrical energy transfer (e.g., AC, DC, wireless).~~

~~(c) For variable service applications, the following information shall be conspicuously displayed or posted on the face of the device:~~

~~(1) the type of delivery (i.e., variable);~~

~~(2) the minimum and maximum power transfer that can occur during a transaction, including whether service can be reduced to zero;~~

~~(3) the condition under which variations in electrical energy transfer will occur; and~~

~~(4) the type of electrical energy transfer (e.g., AC, DC, wireless).~~

~~(d) Where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be displayed.~~

~~(e) The EVSE shall be labeled in accordance with 16 CFR 309—FTC Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles.~~

~~(f) The EVSE shall be listed and labeled in accordance with the National Electric Code® (NEC) NFPA 70, Article 625 Electric Vehicle Charging Systems (www.nfpa.org).~~

~~2.34.4. Street Sign Prices and Other Advertisements.—Where electrical energy unit price information is presented on street signs or in advertising other than on EVSE:~~

~~(a) The electrical energy unit price shall be in terms of price per megajoule (MJ) or kilowatt-hour (kWh) in whole cents (e.g., \$0.12) or tenths of one cent (e.g., \$0.119). In cases where the electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of the unit price.~~

~~(b) In cases where more than one electrical energy unit price may apply over the duration of a single transaction to sales to the general public, the terms and conditions that will determine each unit price and when each unit price will apply shall be clearly displayed.~~

~~(c) For fixed service applications, the following information shall be conspicuously displayed or posted:~~

~~(1) the level of EV service expressed as the nominal power transfer (i.e., nominal rate of electrical energy transfer), and~~

~~(2) the type of electrical energy transfer (e.g., AC, DC, wireless).~~

~~(d) For variable service applications, the following information shall be conspicuously displayed or posted:~~

~~(1) the type of delivery (i.e., variable);~~

~~(2) the minimum and maximum power transfer that can occur during a transaction, including whether service can be reduced to zero;~~

~~(3) the conditions under which variations in electrical energy transfer will occur; and~~

~~(4) the type of electrical energy transfer (e.g., AC, DC, wireless).~~

~~Where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be included on all street signs or other advertising.~~

~~(Added 2013)~~

~~2.35. Diesel Exhaust Fluid (DEF).~~

~~2.35.1. Definition.~~

~~2.35.1.1. Diesel Exhaust Fluid (DEF).— A preparation of aqueous urea [(NH₂)₂CO], containing 32.5 % by mass of technically pure urea in high purity water with quality characteristics defined by the latest version of ISO 22241, “Diesel engines—NO_x reduction agent AUS 32.”~~

~~2.35.2. Labeling of Diesel Exhaust Fluid (DEF).— DEF shall be labeled.~~

~~2.35.2.1. Retail Dispenser Labeling.— A label shall be clearly and conspicuously placed on the front panel of the Diesel Exhaust Fluid dispenser stating “for operation of selective catalytic reduction (SCR) converters in motor vehicles with diesel engines.”~~

~~2.35.2.2. Documentation for Retailers of Bulk Product.— A DEF supplier shall provide, at the time of delivery of the bulk shipment of DEF, identification of the fluid’s origin including the name of the fluid manufacturer, the brand name, trade name, or trademark, and a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241, “Diesel engines—NO_x reduction agent AUS 32.” This information shall be provided by the supplier on an invoice, bill of lading, shipping paper, or other document.~~

~~2.35.2.3. Labeling of Packaged Product.— Any diesel exhaust fluid retail package shall bear a label that includes the name of the fluid manufacturer, the brand name, trade name, or trademark, a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241 “Diesel engines—NO_x reduction agent AUS 32,” and the statement, “It is recommended to store DEF between 5 °C to 30 °C (23 °F to 86 °F).”~~

~~2.35.2.4. Documentation for Bulk Deliveries.— A carrier that transports or accepts for transportation any bulk shipment by tank truck, freight container, cargo tank, railcar, or any other vehicle used to transport or deliver bulk quantities of DEF shall, at the time of delivery of the DEF, provide identification of the fluid’s origin including the name of the fluid manufacturer, the brand name, trade name, or trademark, and a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241, “Diesel engines—NO_x reduction agent AUS 32.” This information shall be provided to the recipient on an invoice, bill of lading, shipping paper, or other document.~~

~~Effective date shall be January 1, 2016.~~

~~(Added 2014)~~

~~2.36. Transmission Fluid.~~

~~2.36.1. Products for Use in Lubricating Transmissions.— Transmission fluids shall meet the original equipment manufacturer’s requirements for those transmissions or have demonstrated performance claims to be suitable for use in those transmissions. Where a fluid can be licensed against an original equipment manufacturer’s specification, evidence of current licensing by the marketer is acceptable~~

~~documentation of performance against the specification. In the absence of a license from the original equipment manufacturer, adherence to the original equipment manufacturer's recommended requirements shall be assessed after testing per relevant methods available to the lubricants industry and the state regulatory agency. Suitability for use claims shall be based upon appropriate field, bench, and/or transmission rig testing. Any manufacturer of a transmission fluid making suitable for use claims shall provide, upon request by a duly authorized representative of the Director, credible documentation of such claims. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims may be requested in confidence by a duly authorized representative of the Director. Supporting data may be supplied directly to the Director's office by the additive supplier(s).~~

(Added 2017)

2.36.1.1. Conformance.—Conformance of a fluid per Section 2.36.1. Products for Use in Lubricating Transmissions does not absolve the obligations of a fluid licensee with respect to the licensing original equipment manufacturer or the original equipment manufacturer's licensing agent(s), where relevant.

(Added 2017)

2.36.1.2. Transmission Fluid Additives.—Any material offered for sale or sold as an additive to transmission fluids shall be compatible with the transmission fluid to which it is added, and shall meet all performance claims as stated on the label or published on any website referenced by the label. Any manufacturer of any such product sold in this state shall provide, upon request by a duly authorized representative of the Director, documentation of any claims made on their product label or published on any website referenced by the label.

(Added 2017)

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.~~

(Added 2017)

2.36.2.2. Identification on Documentation.—Transmission fluid sold in bulk shall be identified on the manufacturer, packer, seller, or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:

~~(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 or reference to where these 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.~~

~~(Added 2017)~~

~~2.36.2.3. Identification on Service Provider Documentation. Transmission fluid installed from a bulk tank at time of transmission service shall be identified on the customer invoice with the information listed below:~~

~~(a) the brand name;~~

~~(b) the name and place of business of the service provider;~~

~~(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 or reference to where these 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.~~

~~(Added 2017)~~

~~2.36.2.4. Bulk Delivery. When the transmission fluid is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the fluid as defined in Section 2.36.2.2. Identification on Documentation.~~

~~(Added 2017)~~

~~2.36.2.5. Storage Tank Labeling. Each storage tank of transmission fluid shall be labeled with the following:~~

~~(a) the brand name;~~

~~(b) the primary performance claim or claims met by the fluid or reference to where these 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.~~

~~(Added 2017)~~

~~2.36.3. Documentation of Claims Made Upon Product Label. Any manufacturer, packer, or distributor of any product subject to this article and sold in this state shall provide, upon request of duly authorized~~

~~representatives of the Director, credible documentation of any claim made upon their product label, including claims made on any website referenced by said label. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims may be requested in confidence by a duly authorized representative of the Director. Supporting data may be supplied directly to the Director's office by the additive supplier(s).~~

~~(Added 2017)~~

~~(Added 2017)~~

2.39. Tractor Hydraulic Fluid.

~~2.39.1. Products for Use in Lubricating Tractors. Tractor hydraulic fluids shall meet at least one current and/or verifiable original equipment manufacturer's specifications for respective tractors. A specification is deemed verifiable if all necessary bench and laboratory test are available to verify the fluid's ability to pass those requirements set out by the original equipment manufacturer. A list of current and verifiable specifications is located on NIST OWM Publication website at www.nist.gov/pml/weights-and-measures/publications/nist-handbooks/handbook-130. Where a fluid can be licensed against an original equipment manufacturer's specification, evidence of current licensing by the marketer is acceptable documentation of performance against the specification. In the absence of a license from the original equipment manufacturer, adherence to the original equipment manufacturer's specifications shall be assessed after testing per relevant methods available to the lubricants industry and the regulatory agency. Suitability for use claims shall be based upon appropriate field, bench, and/or rig testing. Any manufacturer of a tractor hydraulic fluid making suitable for use claims shall provide, upon request by a duly authorized representative of the Director, credible documentation of such claims. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims shall be provided upon request to a duly authorized representative of the Director. Supporting data shall, upon request, be supplied directly to the Director's office by the additive supplier(s).~~

~~2.39.1.1. Conformance. Conformance of a fluid per Section 2.39.1. Products for Use in Lubricating Tractors does not absolve the obligations of a fluid licensee with respect to the licensing original equipment manufacturer or the original equipment manufacturer's licensing agent(s), where relevant.~~

~~2.39.1.2. Tractor Hydraulic Fluid Additives. Any material offered for sale or sold as an additive to tractor hydraulic fluids shall be compatible with the tractor hydraulic fluid to which it is added and shall meet all performance claims as stated on the label or published on any website referenced by the label. Any manufacturer of any such product sold shall provide, upon request by a duly authorized representative of the Director, documentation of any claims made on their product label or published on any website referenced by the label.~~

~~2.39.2. Labeling and Identification of Tractor Hydraulic Fluid. Tractor hydraulic fluids shall be labeled or identified as described below.~~

~~2.39.2.1. Container Labeling. The label on a container of tractor hydraulic 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 tractor hydraulic 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 "Tractor Hydraulic Fluid," which may include words such as "Hydraulic Fluid for Agricultural Applications" or "Universal Tractor Transmission Oil";~~

~~(d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;~~

~~(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:~~

~~*Caution:* Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.~~

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

~~(f) an accurate statement of the quantity of the contents in terms of liquid measure.~~

~~**2.39.2.2. Identification on Documentation.** Tractor hydraulic fluid sold in bulk shall be identified on the manufacturer, packer, seller, or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:~~

~~(a) the brand name;~~

~~(b) the name and place of business of the manufacturer, packer, seller, or distributor;~~

~~(c) the words “Tractor Hydraulic Fluid,” which may include words such as “Hydraulic Fluid for Agricultural Applications” or “Universal Tractor Transmission Oil”;~~

~~(d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;~~

~~(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:~~

~~*Caution:* Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using in applications in which it is not intended.~~

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

~~(f) an accurate statement of the quantity of the contents in terms of liquid measure.~~

~~**2.39.2.3. Identification on Service Provider Documentation.** Tractor hydraulic fluid installed from a bulk tank at time of service shall be identified on the customer invoice with the information listed below:~~

~~(a) the brand name;~~

~~(b) the name and place of business of the service provider;~~

~~(c) the words “Tractor Hydraulic Fluid,” which may include words such as “Hydraulic Fluid for Agricultural Applications” or “Universal Tractor Transmission Oil”;~~

~~(d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;~~

~~(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:~~

~~Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using in applications in which it is not intended.~~

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

~~(f) an accurate statement of the quantity of the contents in terms of liquid measure.~~

~~2.39.2.4. Bulk Delivery. When the tractor hydraulic fluid is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the fluid as defined in Section 2.39.2.2. Identification on Documentation.~~

~~2.39.2.5. Storage Tank Labeling. Each storage tank of tractor hydraulic fluid shall be labeled with the following:~~

~~(a) the brand name;~~

~~(b) the primary performance claim or claims met by the fluid or reference to where these claims may be viewed (for example, website reference). Performance claims are those set by original equipment manufacturers~~

~~2.39.3. Documentation of Claims Made Upon Product Label. Any manufacturer, packer, or distributor of any product subject to this article and sold shall provide, upon request of duly authorized representatives of the Director, credible documentation of any claim made upon their product label, including claims made on any website referenced by said label. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims shall be provided upon request to a duly authorized representative of the Director. Supporting data shall, upon request, be supplied directly to the Director’s office by the additive supplier(s).~~

~~(Added 2019)~~

[Remaining products will be renumbered editorially as needed]

2.XX. Fuels, Lubricants, and Automotive Products

2.XX.1. General Information

2.XX.1.1. Definitions. – For additional information on definitions refer to NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, Section 1. Definitions

2.XX.1.2. Specifications. – For additional information specifications refer to NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, Section 2. Standard Specifications.

2.XX.1.3. Identification, Classification, and Labeling. – For additional information on Identification, Classification and Labeling refer to NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, Section 3. Classification and Method of Sale.

1 2.XX.2. Kerosene (Kerosine). – All kerosene kept, offered, exposed for sale, or sold shall be identified as
2 such and will include, with the word kerosene, an indication of its compliance with the latest version of the
3 standard specification ASTM Standard D3699, “Standard Specification for Kerosine.”

4 Example:

5 1K Kerosene; Kerosene - 2K.

6 (Added 1983)

7 2.XX.2.1. Retail Sale from Bulk. – All kerosene kept, offered, or exposed for sale and sold from bulk
8 at retail shall be in terms of the gallon or liter.

9 (Added 2012)

10 2.XX.3. Gasoline-Oxygenate Blends.

11 2.XX.3.1. Labeling for Retail Sale. – Type of Oxygenate must be Disclosed. – All automotive gasoline
12 or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing
13 at least 1.5 mass percent oxygen shall be identified as “with” or “containing” (or similar wording) the
14 predominant oxygenate in the engine fuel. For example, the label may read “contains ethanol” or “with
15 MTBE.” The oxygenate contributing the largest mass percent oxygen to the blend shall be considered
16 the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the
17 predominant oxygenate followed by the phrase “or other ethers” or alternatively post the phrase
18 “contains MTBE or other ethers.” In addition, gasoline-methanol blend fuels containing more than
19 0.15 mass percent oxygen from methanol shall be identified as “with” or “containing” methanol. This
20 information shall be posted on the upper 50 % of the dispenser front panel in a position clear and
21 conspicuous from the driver’s position in a type at least 12.7 mm (½ in) in height, 1.5 mm (1/16 in) stroke
22 (width of type).

23 (Amended 1996)

24 2.XX.3.2. Documentation for Dispenser Labeling Purposes. – The retailer shall be provided, at the
25 time of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping
26 paper, or other documentation:

27 (a) Information that complies with 40 CFR 80.1503 when the fuel contains
28 ethanol.

29 (b) For fuels that do not contain ethanol, information that complies with 40 CFR 80.1503 and a
30 declaration of the predominant oxygenate or combination of oxygenates present in
31 concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel.
32 Where mixtures of only ethers are present, the fuel supplier may identify either the
33 predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent
34 oxygen) or alternatively, use the phrase “contains MTBE or other ethers.”

35 (c) Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as
36 “with” or “containing” methanol.

37 (Added 1984) (Amended 1985, 1986, 1991, 1996, and 2014)

38 2.XX.3.3. EPA Labeling Requirements. – Retailers and wholesale purchaser-consumers of gasoline
39 shall comply with the EPA pump labeling requirements for gasoline containing greater than 10 volume
40 percent (v%) up to 15 volume percent (v%) ethanol (E15) under 40 CFR 80.1501. (For additional
41 information, refer to Section 2.XX.6.2. FTC Labeling Requirements.)

42 (Added 2018)

43 2.XX.3.4. Gasoline-Oxygenate Blends - Shall be sold in accordance with the Method of Sale Law. (see
44 NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

1 (Added 20XX)

2 2.XX.4. Liquefied Petroleum Gas. – All liquefied petroleum gas, including, but not limited to propane,
 3 butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic
 4 foot ^[NOTE 7, page XXX] of vapor (defined as 1 ft³ at 60 °F [15.6 °C]), or the gallon (defined as 231 in³ at 60 °F
 5 [15.6 °C]). All metered sales by the gallon, except those using meters with a maximum rated capacity of 20
 6 gal/min or less, shall be accomplished by use of a meter and device that automatically compensates for
 7 temperature.

8 (Added 1986)

9 NOTE 7: Sources: American National Standards Institute, Inc., “American National Standard for Gas
 10 Displacement Meters (500 Cubic Feet per Hour Capacity and Under),” First edition, 1974, and NIST Handbook
 11 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.”

12 2.XX.5. Retail Sales of Natural Gas Sold as a Vehicle Fuel.

13 2.XX.5.1. Definitions.

14 2.XX.5.1.1. Compressed Natural Gas (CNG). – A gaseous fuel composed primarily of methane
 15 that is suitable for compression and dispensing into a fuel storage container(s) for use as an engine
 16 fuel.

17 (Amended 2016)

18 2.XX.5.1.2. Gasoline Gallon Equivalent (GGE). – Gasoline gallon equivalent (GGE) means 2.567
 19 kg (5.660 lb) of compressed natural gas.

20 (Amended 2016)

21 2.XX.5.1.3. Diesel Gallon Equivalent (DGE). – Diesel gallon equivalent means 6.384 lb of
 22 compressed natural gas or 6.059 lb of liquefied natural gas.

23 (Added 2016)

24 2.XX.5.1.4. Liquefied Natural Gas (LNG). – Natural gas, which is predominantly methane, that
 25 has been liquefied at – 162 °C (– 260 °F) at 14.696 psia and stored in insulated cryogenic fuel
 26 storage tanks for use as an engine fuel.

27 (Added 2016)

28 2.XX.5.2. Method of Retail Sale and Dispenser Labeling.

29 2.XX.5.2.1. Method of Retail Sale for Compressed Natural Gas. – All compressed natural gas kept,
 30 offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in terms of mass,
 31 and indicated in the gasoline gallon equivalent (GGE), diesel gallon equivalent (DGE) units, or
 32 mass.

33 (Amended 2016)

34 2.XX.5.2.2. Dispenser Labeling Compressed Natural Gas. – All retail compressed natural gas
 35 dispensers shall be labeled with the equivalent conversion factor in terms of pounds (lb). The label
 36 shall be permanently and conspicuously displayed on the face of the dispenser and shall have the
 37 statement “1 Gasoline Gallon Equivalent (GGE) means 5.660 lb of Compressed Natural Gas” or
 38 “1 Diesel Gallon Equivalent (DGE) means 6.384 lb of Compressed Natural Gas” consistent with
 39 the method of sale used.

40 (Amended 2016)

2.XX.5.2.3. Method of Retail Sale for Liquefied Natural Gas. – All liquefied natural gas kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be measured in mass and indicated in diesel gallon equivalent (DGE) units or mass.

(Added 2016)

2.XX.5.2.4. Dispenser Labeling of Retail Liquefied Natural Gas. – All retail liquefied natural gas dispensers shall be labeled with the equivalent conversion factor in terms of pounds (lb). The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement “1 Diesel Gallon Equivalent (DGE) means 6.059 lb of Liquefied Natural Gas.”

(Added 2016)

2.XX.6. Ethanol Flex Fuel.

2.XX.6.1. How to Identify Ethanol Flex Fuel. – Ethanol flex fuel shall be identified as “Ethanol Flex Fuel or EXX Flex Fuel.”

2.XX.6.2. FTC Labeling Requirements. – Ethanol flex fuel shall be identified and labeled in accordance with the Federal Trade Commission (FTC) Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR 306, as amended. (For additional information, refer to Section 2.XX.3.3. EPA Labeling Requirements.)

(Added 2007) (Amended 2014 and 2018)

2.XX.6.3. Ethanol Flex Fuel - Shall be sold in accordance with the Method of Sale Law. (see NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

(Added 20XX)

2.XX.7. Biodiesel and Biodiesel Blends.

2.XX.7.1. Identification of Product. – Biodiesel shall be identified by the term “Biodiesel” with the designation “B100.” Biodiesel Blends shall be identified by the term “Biodiesel Blend.”

2.XX.7.2. Labeling of Retail Dispensers.

2.XX.7.2.1. 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.

2.XX.7.2.2. 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.

2.XX.7.2.3. Automotive Fuel Rating. – Biodiesel and biodiesel blends shall be labeled with its automotive fuel rating in accordance with 16 CFR 306.

2.XX.7.2.4. Biodiesel Blends. – When biodiesel blends greater than 20 % by volume are offered by sale, each side of the dispenser where fuel can be delivered shall have a label conspicuously placed that states “Consult Vehicle Manufacturer Fuel Recommendations.” The lettering of this legend shall not be less than 6 mm (¼ in) in height by 0.8 mm (1/32 in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.

2.XX.7.3. Documentation for Dispenser Labeling Purposes. – The retailer shall be provided, at the time of delivery of the fuel, a declaration of the volume percent biodiesel on an invoice, bill of lading, shipping paper or other document. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.

2.XX.7.4. Exemption. – Biodiesel blends that contain less than or equal to 5 % biodiesel by volume are exempt from the requirements of Sections 2.XX.7.1. Identification of Product, 2.XX.7.2. Labeling of Retail Dispensers, and 2.XX.7.3. Documentation for Dispenser Labeling Purposes when it is sold as diesel fuel.

(Added 2008)

2.XX.7.5. Biodiesel and Biodiesel Blends - Shall be sold in accordance with the Method of Sale Law. (see NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

(Added 20XX)

2.XX.8. Retail Sales of Hydrogen Fuel (H).

2.XX.8.1. Definitions for Hydrogen Fuel. – A fuel composed of molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.

(Amended 2012)

2.XX.8.2. Method of Retail Sale and Dispenser Labeling. – All hydrogen fuel kept, offered, or exposed for sale and sold at retail shall be in mass units in terms of the kilogram. The symbol for hydrogen vehicle fuel shall be the capital letter “H” (the word Hydrogen may also be used).

2.XX.8.3. Retail Dispenser Labeling.

(a) A computing dispenser must display the unit price in whole cents on the basis of price per kilogram.

(b) The service pressure(s) of the dispenser must be conspicuously shown on the user interface in bar or the SI unit of pascal (Pa) (e.g., MPa).

(c) The product identity must be shown in a conspicuous location on the dispenser.

(d) National Fire Protection Association (NFPA) labeling requirements also apply.

(e) Hydrogen shall be labeled in accordance with 16 CFR 309 – FTC Labeling Alternative Fuels.

2.XX.8.4. Street Sign Prices and Advertisements.

(a) The unit price must be in terms of price per kilogram in whole cents (e.g., \$3.49 per kg, not \$3.499 per kg).

(b) The sign or advertisement must include the service pressure (expressed in megapascals) at which the dispenser(s) delivers hydrogen fuel (e.g., H35 or H70).

(Added 2010)

2.XX.9. Oil.

2.XX.9.1. Labeling of Vehicle Engine (Motor) Oil. – Vehicle engine (motor) oil shall be labeled.

2.XX.9.1.1. Viscosity. – The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank, and any invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank, shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with SAE International’s latest version of SAE J300, “Engine Oil Viscosity Classification.”

NOTE: If an invoice or receipt from service on an engine has limited room for identifying the viscosity, brand, and service category, then abbreviated versions of each may be used on the invoice or receipt and the letters "SAE" may be omitted from the viscosity classification.

(Note added 2014)

(Amended 2014)

2.XX.9.1.2. Brand. – The label on any vehicle engine (motor) oil container and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle engine (motor) oil.

(Amended 2014)

2.XX.9.1.3. Engine Service Category. – The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the engine service category, or categories, displayed in letters not less than 3.18 mm (1/8 in) in height, as defined by the latest version of SAE J183, "Engine Oil Performance and Engine Service Classification (Other than "Energy Conserving")," API Publication 1509, "Engine Oil Licensing and Certification System," European Automobile Manufacturers Association (ACEA), "European Oil Sequences," or other Vehicle or Engine Manufacturer standards as approved in Section 2.XX.9.1.3.1. Vehicle or Engine Manufacturer Standard.

(Amended 2014)

2.XX.9.1.3.1. Vehicle or Engine Manufacturer Standard. – The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in letters not less than 3.18 mm (1/8 in) in height. If the vehicle (motor) oil only meets a vehicle or engine manufacturer standard, the label must clearly identify that the oil is only intended for use where specifically recommended by the vehicle or engine manufacturer.

(Added 2014)

2.XX.9.1.3.2. Inactive or Obsolete Service Categories. – The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, Appendix A, whenever the vehicle engine (motor) oil in the container or in bulk does not meet an active API service category as defined by the latest version of SAE J183, "Engine Oil Performance and Engine Service Classification (Other than "Energy Conserving")." If a vehicle engine(motor) oil is identified as only meeting a vehicle or engine manufacturer standard, the labeling requirements in Section 2.XX.9.1.3.1. Vehicle or Engine Manufacturer Standard applies.

(Amended 2014)

2.XX.9.1.4. Tank Trucks or Rail Cars. – Tank trucks, rail cars, and other types of delivery trucks that are used to deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service category or categories on such tank trucks, rail cars, and other types of delivery trucks.

(Amended 2013 and 2014)

2.XX.9.1.5. Documentation. – When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must

identify the quantity of bulk engine (motor) oil delivered as defined in Sections 2.XX.9.1.1. Viscosity; 2.XX.9.1.2. Brand; 2.XX.9.1.3. Engine Service Category; the name and address of the seller and buyer; and the date and time of the sale. For inactive or obsolete service categories, the documentation shall also bear a plainly visible cautionary statement as required in Section 2.XX.9.1.3.2. Inactive or Obsolete Service Categories. Documentation must be retained at the retail establishment for a period of not less than one year.

(Added 2013) (Amended 2014)

2.XX.9.2. Oil - Shall be sold in accordance with the Method of Sale Law. (see NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

(Added 20XX)

(Added 2012) (Amended 2013 and 2014)

2.XX.10. Retail Sales of Electricity Sold as a Vehicle Fuel.

2.XX.10.1. Definitions.

2.XX.10.1.1. Electricity Sold as Vehicle Fuel. – Electrical energy transferred to and/or stored onboard an electric vehicle primarily for the purpose of propulsion.

2.XX.10.1.2. Electric Vehicle Supply Equipment (EVSE). – The conductors, including the ungrounded, grounded, and equipment grounding conductors; the electric vehicle connectors; attachment plugs; and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of measuring, delivering, and computing the price of electrical energy delivered to the electric vehicle.

2.XX.10.1.3. Fixed Service. – Service that continuously provides the nominal power that is possible with the equipment as it is installed.

2.XX.10.1.4. Variable Service. – Service that may be controlled resulting in periods of reduced, and/or interrupted transfer of electrical energy.

2.XX.10.1.5. Nominal Power. – Refers to the “intended” or “named” or “stated” as opposed to “actual” rate of transfer of electrical energy (i.e., power).

2.XX.10.2. Method of Sale. – All electrical energy kept, offered, or exposed for sale and sold at retail as a vehicle fuel shall be in units in terms of the megajoule (MJ) or kilowatt-hour (kWh). In addition to the fee assessed for the quantity of electrical energy sold, fees may be assessed for other services; such fees may be based on time measurement and/or a fixed fee.

2.XX.10.3. Retail Electric Vehicle Supply Equipment (EVSE) Labeling.

(a) A computing EVSE shall display the unit price in whole cents (e.g., \$0.12) or tenths of one cent (e.g., \$0.119) on the basis of price per megajoule (MJ) or kilowatt-hour (kWh). In cases where the electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of the unit price.

(b) For fixed service applications, the following information shall be conspicuously displayed or posted on the face of the device:

(1) the level of EV service expressed as the nominal power transfer (i.e., nominal rate of electrical energy transfer), and

(2) the type of electrical energy transfer (e.g., AC, DC, wireless).

1 (c) For variable service applications, the following information shall be conspicuously displayed
2 or posted on the face of the device:

3 (1) the type of delivery (i.e., variable);

4 (2) the minimum and maximum power transfer that can occur during a transaction,
5 including whether service can be reduced to zero;

6 (3) the condition under which variations in electrical energy transfer will occur; and

7 (4) the type of electrical energy transfer (e.g., AC, DC, wireless).

8 (d) Where fees will be assessed for other services in direct connection with the fueling of the
9 vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be
10 displayed.

11 (e) The EVSE shall be labeled in accordance with 16 CFR 309 – FTC Labeling Requirements for
12 Alternative Fuels and Alternative Fueled Vehicles.

13 (f) The EVSE shall be listed and labeled in accordance with the National Electric Code® (NEC)
14 NFPA 70, Article 625 Electric Vehicle Charging Systems (www.nfpa.org).

15 2.XX.10.4. Street Sign Prices and Other Advertisements. – Where electrical energy unit price
16 information is presented on street signs or in advertising other than on EVSE:

17 (a) The electrical energy unit price shall be in terms of price per megajoule (MJ) or kilowatt-hour
18 (kWh) in whole cents (e.g., \$0.12) or tenths of one cent (e.g., \$0.119). In cases where the
19 electrical energy is unlimited or free of charge, this fact shall be clearly indicated in place of
20 the unit price.

21 (b) In cases where more than one electrical energy unit price may apply over the duration of a
22 single transaction to sales to the general public, the terms and conditions that will determine
23 each unit price and when each unit price will apply shall be clearly displayed.

24 (c) For fixed service applications, the following information shall be conspicuously displayed or
25 posted:

26 (1) the level of EV service expressed as the nominal power transfer (i.e., nominal rate of
27 electrical energy transfer), and

28 (2) the type of electrical energy transfer (e.g., AC, DC, wireless).

29 (d) For variable service applications, the following information shall be conspicuously displayed
30 or posted:

31 (1) the type of delivery (i.e., variable);

32 (2) the minimum and maximum power transfer that can occur during a transaction,
33 including whether service can be reduced to zero;

34 (3) the conditions under which variations in electrical energy transfer will occur; and

35 (4) the type of electrical energy transfer (e.g., AC, DC, wireless).

Where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement and/or a fixed fee, the additional fees shall be included on all street signs or other advertising.

(Added 2013)

2.XX.11. Diesel Exhaust Fluid (DEF).

2.XX.11.1. Definition.

2.XX.11.1.1. Diesel Exhaust Fluid (DEF). – A preparation of aqueous urea [(NH₂)₂CO], containing 32.5 % by mass of technically-pure urea in high-purity water with quality characteristics defined by the latest version of ISO 22241, “Diesel engines - NO_x reduction agent AUS 32.”

2.XX.11.2. Labeling of Diesel Exhaust Fluid (DEF). – DEF shall be labeled.

2.XX.11.2.1. Retail Dispenser Labeling. – A label shall be clearly and conspicuously placed on the front panel of the Diesel Exhaust Fluid dispenser stating “for operation of selective catalytic reduction (SCR) converters in motor vehicles with diesel engines.”

2.XX.11.2.2. Documentation for Retailers of Bulk Product. – A DEF supplier shall provide, at the time of delivery of the bulk shipment of DEF, identification of the fluid’s origin including the name of the fluid manufacturer, the brand name, trade name, or trademark, and a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241, “Diesel engines - NO_x reduction agent AUS 32.” This information shall be provided by the supplier on an invoice, bill of lading, shipping paper, or other document.

2.XX.11.2.3. Labeling of Packaged Product. – Any diesel exhaust fluid retail package shall bear a label that includes the name of the fluid manufacturer, the brand name, trade name, or trademark, a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241 “Diesel engines - NO_x reduction agent AUS 32,” and the statement, “It is recommended to store DEF between – 5 °C to 30 °C (23 °F to 86 °F).”

2.XX.11.2.4. Documentation for Bulk Deliveries. – A carrier that transports or accepts for transportation any bulk shipment by tank truck, freight container, cargo tank, railcar, or any other vehicle used to transport or deliver bulk quantities of DEF shall, at the time of delivery of the DEF, provide identification of the fluid’s origin including the name of the fluid manufacturer, the brand name, trade name, or trademark, and a statement identifying the fluid as DEF conforming to specifications given in the latest version of ISO 22241, “Diesel engines - NO_x reduction agent AUS 32.” This information shall be provided to the recipient on an invoice, bill of lading, shipping paper, or other document.

Effective date shall be January 1, 2016.

2.XX.11.3. Diesel Exhaust Fluid (DEF) - Shall be sold in accordance with the Method of Sale Law. (see NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

(Added 20XX)

(Added 2014)

2.XX.12. Transmission Fluid.

2.XX.12.1. Products for Use in Lubricating Transmissions. – Transmission fluids shall meet the original equipment manufacturer’s requirements for those transmissions or have demonstrated performance claims to be suitable for use in those transmissions. Where a fluid can be licensed against an original equipment manufacturer’s specification, evidence of current licensing by the marketer is

acceptable documentation of performance against the specification. In the absence of a license from the original equipment manufacturer, adherence to the original equipment manufacturer's recommended requirements shall be assessed after testing per relevant methods available to the lubricants industry and the state regulatory agency. Suitability for use claims shall be based upon appropriate field, bench, and/or transmission rig testing. Any manufacturer of a transmission fluid making suitable-for-use claims shall provide, upon request by a duly authorized representative of the Director, credible documentation of such claims. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims may be in confidence by a duly authorized representative of the Director. Supporting data may be supplied directly to the Director's office by the additive supplier(s).

(Added 2017)

2.XX.12.1.1. Conformance. – Conformance of a fluid per Section 2.XX.12.1. Products for Use in Lubricating Transmissions does not absolve the obligations of a fluid licensee with respect to the licensing original equipment manufacturer or the original equipment manufacturer's licensing agent(s), where relevant.

(Added 2017)

2.XX.12.1.2. Transmission Fluid Additives. – Any material offered for sale or sold as an additive to transmission fluids shall be compatible with the transmission fluid to which it is added, and shall meet all performance claims as stated on the label or published on any website referenced by the label. Any manufacturer of any such product sold in this state shall provide, upon request by a duly authorized representative of the Director, documentation of any claims made on their product label or published on any website referenced by the label.

(Added 2017)

2.XX.12.2. Labeling and Identification of Transmission Fluid. – Transmission fluid shall be labeled or identified as described below.

(Added 2017)

2.XX.12.2.1. 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.

(Added 2017)

2.XX.12.2.2. Identification on Documentation. – Transmission fluid sold in bulk shall be identified on the manufacturer, packer, seller, or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:

(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 or reference to where these 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.

(Added 2017)

2.XX.12.2.3. Identification on Service Provider Documentation. – Transmission fluid installed from a bulk tank at time of transmission service shall be identified on the customer invoice with the information listed below:

(a) the brand name;

(b) the name and place of business of the service provider;

(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 or reference to where these 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.

(Added 2017)

2.XX.12.2.4. Bulk Delivery. – When the transmission fluid is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the fluid as defined in Section 2.XX.12.2.2. Identification on Documentation.

(Added 2017)

2.XX.12.2.5. Storage Tank Labeling. – Each storage tank of transmission fluid shall be labeled with the following:

(a) the brand name;

(b) the primary performance claim or claims met by the fluid or reference to where these 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.

1 (Added 2017)

2 2.XX.12.3. Documentation of Claims Made Upon Product Label. – Any manufacturer, packer, or
3 distributor of any product subject to this article and sold in this state shall provide, upon request of
4 duly authorized representatives of the Director, credible documentation of any claim made upon their
5 product label, including claims made on any website referenced by said label. If the product
6 performance claims published by a blender and/or marketer are based on the claim(s) of one or more
7 additive suppliers, documentation of the claims may be requested in confidence by a duly authorized
8 representative of the Director. Supporting data may be supplied directly to the Director’s office by
9 the additive supplier(s).

10 (Added 2017)

11 2.XX.12.4. Transmission Fluid - Shall be sold in accordance with the Method of Sale Law. (see NIST
12 Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

13 (Added 20XX)

14 (Added 2017)

15 2.XX.13. Tractor Hydraulic Fluid.

16 2.XX.13.1. Products for Use in Lubricating Tractors. – Tractor hydraulic fluids shall meet at least one
17 current and/or verifiable original equipment manufacturer’s specifications for respective tractors. A
18 specification is deemed verifiable if all necessary bench and laboratory test are available to verify the
19 fluid’s ability to pass those requirements set out by the original equipment manufacturer. A list of
20 current and verifiable specifications is located on the NIST OWM Publication website at
21 www.nist.gov/pml/weights-and-measures/publications/nist-handbooks/handbook-130. Where a fluid
22 can be licensed against an original equipment manufacturer’s specification, evidence of current
23 licensing by the marketer is acceptable documentation of performance against the specification. In the
24 absence of a license from the original equipment manufacturer, adherence to the original equipment
25 manufacturer’s specifications shall be assessed after testing per relevant methods available to the
26 lubricants industry and the regulatory agency. Suitability for use claims shall be based upon
27 appropriate field, bench, and/or rig testing. Any manufacturer of a tractor hydraulic fluid making
28 suitable for use claims shall provide, upon request by a duly authorized representative of the Director,
29 credible documentation of such claims. If the product performance claims published by a blender
30 and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the
31 claims shall be provided upon request to a duly authorized representative of the Director. Supporting
32 data shall, upon request, be supplied directly to the Director’s office by the additive supplier(s).

33 2.XX.13.1.1. Conformance. – Conformance of a fluid per Section 2.XX.13.1. Products for Use in
34 Lubricating Tractors does not absolve the obligations of a fluid licensee with respect to the
35 licensing original equipment manufacturer or the original equipment manufacturer’s licensing
36 agent(s), where relevant.

37 2.XX.13.1.2. Tractor Hydraulic Fluid Additives. –Any material offered for sale or sold as an
38 additive to tractor hydraulic fluids shall be compatible with the tractor hydraulic fluid to which it
39 is added and shall meet all performance claims as stated on the label or published on any website
40 referenced by the label. Any manufacturer of any such product sold shall provide, upon request
41 by a duly authorized representative of the Director, documentation of any claims made on their
42 product label or published on any website referenced by the label.

43 2.XX.13.2. Labeling and Identification of Tractor Hydraulic Fluid. – Tractor hydraulic fluids shall be
44 labeled or identified as described below.

45 2.XX.13.2.1. Container Labeling. – The label on a container of tractor hydraulic fluid shall not
46 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 tractor hydraulic 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 “Tractor Hydraulic Fluid,” which may include words such as “Hydraulic Fluid for Agricultural Applications” or “Universal Tractor Transmission Oil”;
- (d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;
- (e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications.
- (f) an accurate statement of the quantity of the contents in terms of liquid measure.

2.XX.13.2.2. Identification on Documentation. – Tractor hydraulic fluid sold in bulk shall be identified on the manufacturer, packer, seller, or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:

- (a) the brand name;
- (b) the name and place of business of the manufacturer, packer, seller, or distributor;
- (c) the words “Tractor Hydraulic Fluid,” which may include words such as “Hydraulic Fluid for Agricultural Applications” or “Universal Tractor Transmission Oil”;
- (d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;
- (e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using in applications in which it is not intended.

The above warning is not required if the fluid claims to meet current original equipment manufacturer’s specifications and refers to thereby preceding specifications.
- (f) an accurate statement of the quantity of the contents in terms of liquid measure.

2.XX.13.2.3. Identification on Service Provider Documentation. – Tractor hydraulic fluid installed from a bulk tank at time of service shall be identified on the customer invoice with the information listed below:

(a) the brand name;

(b) the name and place of business of the service provider;

(c) the words “Tractor Hydraulic Fluid,” which may include words such as “Hydraulic Fluid for Agricultural Applications” or “Universal Tractor Transmission Oil”;

(d) the primary claim or claims met by the fluid and reference to where any supplemental claims may be viewed (e.g., website reference). Performance claims are those set by original equipment manufacturers;

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color:

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using in applications in which it is not intended.

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

(f) an accurate statement of the quantity of the contents in terms of liquid measure.

2.XX.13.2.4. Bulk Delivery. – When the tractor hydraulic fluid is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the fluid as defined in Section 2.XX.13.2.2. Identification on Documentation.

2.XX.13.2.5. Storage Tank Labeling. – Each storage tank of tractor hydraulic fluid shall be labeled with the following:

(a) the brand name;

(b) the primary performance claim or claims met by the fluid or reference to where these claims may be viewed (for example, website reference). Performance claims are those set by original equipment manufacturers.

2.XX.13.3. Documentation of Claims Made Upon Product Label. – Any manufacturer, packer, or distributor of any product subject to this article and sold shall provide, upon request of duly authorized representatives of the Director, credible documentation of any claim made upon their product label, including claims made on any website referenced by said label. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims shall be provided upon request to a duly authorized representative of the Director. Supporting data shall, upon request, be supplied directly to the Director’s office by the additive supplier(s).

(Added 2019)

2.XX.13.4. Tractor Hydraulic Fluid – Shall be sold in accordance with the Method of Sale Law. (see NIST Handbook 130, Uniform Weights and Measures Law, Section 17. Method of Sale.)

(Added 20XX)

1 **Background/Discussion:** See Appendix A, Page L&R-A95.

SWMA Report
Regional recommendation to NCWM on item status: <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 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> <p>The Committee would like to leave the language as it appears in their agenda. They would like to see this as an Assigned item. They are concerned that if this is adopted it may hinder some states from regulation or their authority. Prior to continuing the developing of this item they would like to have the submitter determine what the ramifications are from the states that may be impacted by the adoption of this item.</p> <p>There is one typographical change that needs to be made (reflected by a double underline) in Section 2.XX.1.2. Specifications</p> <p><u>2.XX. Fuels, Lubricants, and Automotive Products</u></p> <p><u>2.XX.1. General Information</u></p> <p><u>2.XX.1.1. Definitions. – For additional information on definitions refer to NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, Section 1. Definitions</u></p> <p><u>2.XX.1.2. Specifications. – For additional information on specifications refer to NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation, Section 2. Standard Specifications.</u></p>

2
3 Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to
4 <https://www.ncwm.net/meetings/interim/publication-15> to review these documents.

5 **MOS-20.3 2.X. Diesel Fuel**

6 **Source:**
7 National Biodiesel Board

8 **Purpose:**
9 Add the recently approved language for premium diesel into the section (B) for method of sale.

10 **Item Under Consideration:**
11 Amend NIST Handbook 130 Uniform Regulation for the Method of Sale of Commodities as follows:

12 **2.X. Diesel Fuel. – Shall meet the following requirements, based on the biodiesel concentration of the fuel:**

1 (a) Diesel fuel that contains less than or equal to 5 % by volume biodiesel shall meet the latest
2 version of ASTM D975, “Standard Specifications for Diesel Fuels Oils” and shall be sold as diesel
3 fuel.

4 (b) Diesel fuel that contains greater than or equal to 6 % by volume biodiesel and that contains less
5 than or equal to 20 % by volume shall meet the latest version of ASTM D7467, “Standard
6 Specifications for Diesel Fuel Oil, Biodiesel Blend (B6 to B20).”

7 (c) Only fuel additive registered with the U.S. EPA may be used to additize diesel fuel, and the final
8 product shall meet the latest version of ASTM D975 and/or ASTM D7467.

9 2.X.1. Premium Diesel Fuel. – All diesel fuels identified on retail dispensers as premium, super, supreme,
10 or premier must conform to the following minimum requirements.

11 (a) Cetane Number. – A minimum cetane number of 47.0 as determined by the latest version of
12 ASTM D613, “Standard Test Method for Cetane Number of Diesel Fuel Oil.”

13 *NOTE: ASTM D613, “Standard Test Method for Cetane Number of Diesel Fuel Oil” is the referee*
14 *method; however, the following methods can be used to determine cetane number: the latest*
15 *versions of ASTM D6890, “Standard Test Method for Determination of Ignition Delay and Derived*
16 *Cetane Number” (DCN) of Diesel Fuel Oils by Combustion in a Constant Volume Chamber”;*
17 *ASTM D7170, “Standard Test Method for Determination of Derived Cetane Number (DCN) of*
18 *Diesel Fuel Oils—Fixed Range Injection Period, Constant Volume Combustion Chamber Method”;*
19 *and ASTM D7668, “Standard Test Method for Determination of Derived Cetane Number (DCN) of*
20 *Diesel Fuel Oils—Ignition Delay and Combustion Delay Using a Constant Volume Combustion*
21 *Chamber Method.”*

22 (b) Low Temperature Operability. – A cold flow performance measurement which meets the latest
23 version of ASTM D975, “Standard Specification for Diesel Fuel Oils,” tenth percentile minimum
24 ambient air temperature charts and maps by the latest versions of either ASTM D2500,
25 “Standard Test Method for Cloud Point of Petroleum Products and Liquid Fuels” or ASTM
26 Standard D4539, “Standard Test Method for Filterability of Diesel Fuels by Low-Temperature
27 Flow Test (LTFT).” The latest version of ASTM D6371, “Standard Test Method for Cold Filter
28 Plugging Point of Diesel and Heating Fuels” may be used when the test results are a maximum of
29 6 °C below the Cloud Point. Low temperature operability is only applicable October 1 to March
30 31 of each year.

31 (c) Lubricity. – A maximum wear scar diameter of 460 micrometers as determined by the latest
32 version ASTM D6079, “Standard Test Method for Evaluating Lubricity of Diesel Fuels by the
33 High-Frequency Reciprocating Rig (HFRR).”

34 *NOTE: The latest version of ASTM D6079, “Standard Test Method for Evaluating Lubricity of*
35 *Diesel Fuels by the High-Frequency Reciprocating Rig (HFRR)” is the referee method; however,*
36 *the latest version of ASTM D7688, “Standard Test Method for Evaluating Lubricity of Diesel Fuels*
37 *by the High-Frequency Reciprocating Rig (HFRR) by Visual Observation” can be used.*

38 (d) Corrosion. – A minimum rating of B+ as determined by the most recent version of NACE
39 TM0172, “Determining Corrosive Properties of Cargoes in Petroleum Product Pipelines.”

40 *NOTE: The latest recent version of NACE TM0172 “Determining Corrosive Properties of Cargoes*
41 *in Petroleum Product Pipelines” is the referee method. The latest version of ASTM D7548*
42 *“Standard Test Method for Determination of Accelerated Iron Corrosion in Petroleum Products”*
43 *can be used.*

44 (e) Filter Blocking Tendency (FBT) – A maximum of 2.2 by ASTM D2068, “Standard Test Method
45 for Determining Filter Blocking Tendency”, following procedure B.

(f) Injector Deposit Control. – Maximum power loss in keep-clean mode of 2 % by the latest version of Coordinating European Council, CEC F-98-08, “Direct Injection, Common Rail Diesel Engine Nozzle Coking Test.”

2.X.2. Use of Other Diesel Terminology. – For any terms other than premium, super, supreme, or premier included in the diesel fuel product or grade name and/or advertisements and claims displayed on dispensers, pump toppers, pole signs and bollard signs which imply improved performance, the product must have a clearly-defined fuel property with a substantiated functional benefit. Such property must be measurable utilizing industry accepted test methodologies developed by recognized standards organizations such as ASTM, SAE and CEC to allow verification of the improved performance.

(Added 20XX)

Background/Discussion: See Appendix A, Page L&R-A97.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i> The Committee concurs with this item under consideration and recommends this as a Voting item.

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

MOS-20.4 2.XX. Ink and Toner Cartridges

Source:

Tennessee Department of Agriculture

Purpose:

Define, designate, and add specific accurate and adequate quantity information that permits buyers to make price and quantity comparisons for each package.

Item Under Consideration:

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

2.XX. Ink and Toner Cartridges

2.XX.1. Definition.

2.XX.1.1. Ink Cartridge or Ink Jet Cartridge. - A cartridge that contains ink and can be replaced, a module designed to be inserted into a larger piece of equipment.

2.XX.1.2. Toner Cartridge. - also called laser toner, is the consumable component of a laser printer. Toner cartridges contain toner powder, a fine, dry mixture of plastic particles, carbon, and black or other coloring agents that make the actual image on the paper.

2.XX.2. Quantity.

2.XX.2.1. - Ink Cartridges, Ink Jet Cartridges shall include on the principal display panel of the package the following information: Average Page Yield xxxx Pages conducted in accordance with ISO/IEC 24711 & ISO/IEC 24712

2.XX.2.2. Toner Cartridges shall include on the principal display panel of the package the following information: Average Page Yield xxxx Pages conducted in accordance with ISO/IEC 19752.

2.XX.2.3. Additional required statement: “For more specific information go to “www..... Packagers Website”. Manufacturer will then have more detailed information and explanation about possible variability in the average page yields due to specific printers used, environmental conditions, number of print jobs, font selected, or any other factors that may influence the declared average page yield.

Background/Discussion: See Appendix A, Page L&R-A97.

SWMA Report	
Regional recommendation to NCWM on item status:	
<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>	
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)	
The Committee believes this item has merit. They would like a workgroup to be assigned by the L&R Chair to bring together regulators and industry to resolve issues that are brought forward by this “item under consideration.”	
Mr. Ed Coleman (TN) has volunteered to Chair this workgroup.	

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

MOS-20.5 2.21. Liquefied Petroleum Gas

Source:

Arizona Dept 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 NIST Handbook 130 Uniform Regulation for the Method of Sale of Commodities as follows:

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 XXXX)

Background/Discussion: See Appendix A, Page L&R-A99.

SWMA Report
<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>The SWMA considered the two proposals that were submitted by Michelle Wilson (Arizona) on 9/30/2019. The Committee took into consideration proposal number two.</p> <p>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.</p> <p><u>(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.</u></p> <p><u>(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.</u></p>

(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 this item to 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.

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

MOS-20.6 2.37. Pet and Specialty Pet Treats or Chews

Source:

Association of American Feed Control Officials (AAFCO)

Purpose:

Address the potential for confusion by the establishment of divergent requirements under a given state's commercial animal feed authority and weights and measures authority.

Item Under Consideration:

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

2.37. Pet and Specialty Pet Treats or Chews. ~~Digestive chews, rawhides, bones, biscuits, antlers or similar type products shall be sold by weight.~~

2.37.1 Definitions.

2.37.1.1. Pet – dog (*Canis familiaris*) or cat (*Felis catus*)

2.37.1.2. Specialty Pet – any animal normally maintained in a household, such as, but not limited to rodents, ornamental birds, ornamental fish, reptiles and amphibians, ferrets, hedgehogs, marsupials, and rabbits not raised for food or fur.

2.37.1.3. Treat – a food provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete feed or supplement.

2.37.1.4. Chew – chews, bones, toys, and exercisers made of animal parts, hide, wood, or man-made materials. Animal chews include, but are not limited to, rawhides, hooves, ears, animal bones, ligaments, snouts, and pizzles.

2.37.2. Labeling of Pet and Specialty Pet Treats or Chews.

2.37.2.1 The principal display panel of a pet treat or chew in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure. When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information.

2.37.2.1.1. Pet or specialty pet treats may be sold by weight or a combination of numerical count and weight.

2.37.2.1.2. Pet or specialty pet chews that are animal parts sold in the whole form (e.g. ears or snouts) may be sold by weight, count or a combination of numerical count and weight.

2.37.2.1.3. Pet or specialty pet chews that are sold in processed form (e.g. sliced antlers, ligaments, or man-made chews) may be sold by weight or a combination of numerical count and weight or size (i.e. length).

Background/Discussion: See Appendix A, Page L&R-A99.

SWMA Report
Regional recommendation to NCWM on item status: <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 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>
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i>
<p>The Committee would like this item to be withdrawn. They believe the language does not resolve the issue of allowing for facilitation of value comparison since it allows for many methods of sale within Section 2.37.2. Labeling of Pet and Specialty Pet Treat or Chews.</p> <p>The Committee received letters opposing this item.</p>

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

ITEM BLOCK 2 (B2) TRACTOR HYDRAULIC FLUID

B2: MOS-20.1 2.XX. Tractor Hydraulic Fluid

B2: FAL-20.1 1.XX. Tractor Hydraulic Fluid

Source:

Independent Lubricant Manufacturers Association (ILMA)

Purpose:

Amend recently adopted Handbook 130 provisions on tractor hydraulic fluids to include specification being developed by ASTM. Improve labeling for required cautionary statement, and distinguish hydraulic fluids not intended for use in tractor central sump.

B2: MOS-20.1. 2.XX. Tractor Hydraulic Fluid

Item Under Consideration:

Amend NIST Handbook 130 Uniform Regulation for the Method of Sale of Commodities as follows.

2.XX. Tractor Hydraulic Fluid.

2.XX.1. Products for Use in Lubricating Tractors. – Tractor hydraulic fluids shall meet at least one current and/or verifiable original equipment manufacturer’s requirements **or a specification, standard or code of practice issued by a nationally-recognized association** for those respective tractors. A list of current and verifiable specifications **and specification, standard or code of practice** can be found under “References” on NCWM’s homepage. Where a fluid can be licensed against an original equipment manufacturer’s specification, evidence of current licensing by the marketer is acceptable documentation of performance against the specification. In the absence of a license from the original equipment manufacturer, adherence to the original equipment manufacturer’s recommended requirements shall be assessed after testing per relevant methods available to the lubricants industry and the regulatory agency. Suitability-for-use claims shall be based upon appropriate field, bench, and/or rig testing. Any manufacturer of a tractor hydraulic fluid making suitable-for-use claims shall provide, upon request by a duly authorized representative of the Director, credible documentation of such claims. If the product performance claims published by a blender and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims shall be provided upon request to by a duly authorized representative of the Director. Supporting data shall, upon request, be supplied directly to the Director’s office by the additive supplier(s).

...

2.XX.2. Labeling and Identification of Tractor Hydraulic Fluid. – Tractor hydraulic fluids shall be labeled or identified as described below.

2.XX.2.1. Container Labeling. – The label on a container of tractor hydraulic 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 tractor hydraulic fluid shall be labeled with the following:

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package label in clearly legible font size and color **and in a manner reasonably calculated to draw the purchaser’s attention to such warning:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet **and refers to the current original equipment manufacturer’s specifications and/or specification, standard or code of practice issued by a nationally-recognized association and refers to thereby preceding specifications.**

...

2.XX.2.2. Identification on Documentation. – Tractor hydraulic fluid sold in bulk shall be identified on the manufacturer, packer, seller, or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the **invoice, bill of lading, shipping paper, or other documentation front package** in clearly legible font size and color **and in a manner reasonably calculated to draw the purchaser’s attention to such warning:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet and refers to the current original equipment manufacturer's specifications and/or specification, standard or code of practice issued by a nationally-recognized association ~~and refers to thereby preceding specifications.~~

...

2.XX.2.3. Identification on Service Provider Documentation. – Tractor hydraulic fluid installed from a bulk tank at time of service shall be identified on the customer invoice or other documentation with the information listed below:

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the customer invoice or other documentation ~~front package label~~ in clearly legible font size and color and in a manner reasonably calculated to draw the purchaser's attention to such warning:

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet and refers to the current original equipment manufacturer's specifications and/or specification, standard or code of practice issued by a nationally-recognized association ~~and refers to thereby preceding specifications.~~

B2: FLR-20.1 1.XX. Tractor Hydraulic Fluid, 2.XX. Products for Use in Lubricating Tractors and 3.XX. Tractor Hydraulic Fluid.

Item Under Consideration:

Amend NIST Handbook 130, Uniform Fuels and Automotive Lubricants Inspection Law, Section 8.6. Prohibited Acts.

1.XX. Tractor Hydraulic Fluid. – A product intended for use in tractors with a common sump for the transmission, final drives, wet brakes, axles and hydraulic system.

1.XX. Hydraulic Fluid. – A product intended for use in multiple applications with a dedicated hydraulic system and sump. Such fluids cannot be used in tractors. A person shall not represent a hydraulic fluid in any manner that may deceive or tend to deceive the purchaser as to suitability for the use of the product as a Tractor Hydraulic Fluid. See Tractor Hydraulic Fluid for reference.

2.XX. Products for Use in Lubricating Tractors. – Tractor hydraulic fluids shall meet at least one current and/or verifiable original equipment manufacturer's requirements or a specification, standard or code of practice issued by a nationally-recognized association for those respective tractors. A list of current and verifiable specifications and specification, standard or code of practice can be found under “References” on NCWM's homepage. Where a fluid can be licensed against an original equipment manufacturer's specification, evidence of current licensing by the marketer is acceptable documentation of performance against the specification. In the absence of a license from the original equipment manufacturer, adherence to the original equipment manufacturer's recommended requirements shall be assessed after testing per relevant methods available to the lubricants industry and the regulatory agency. Suitability-for-use claims shall be based upon appropriate field, bench, and/or rig testing. Any manufacturer of a tractor hydraulic fluid making suitable-for-use claims shall provide, upon request by a duly authorized representative of the Director, credible documentation of such claims. If the product performance claims published by a blender

and/or marketer are based on the claim(s) of one or more additive suppliers, documentation of the claims shall be provided upon request to a duly authorized representative of the Director. Supporting data shall, upon request, be supplied directly to the Director's office by the additive supplier(s).

3.XX. Tractor Hydraulic Fluid.

3.XX.1. Labeling and Identification of Tractor Hydraulic Fluid. – Tractor hydraulic fluid shall be labeled or identified as described below.

3.XX.1.1.Container Labeling. – The label on a container of tractor hydraulic 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 tractor hydraulic fluid shall be labeled with the following:

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the front package in clearly legible font size and color **and in a manner reasonably calculated to draw the purchaser's attention to such warning:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet **and refers to the** current original equipment manufacturer's specifications **and/or specification, standard or code of practice issued by a nationally-recognized association and refers to thereby preceding specifications.**

3.XX.1.2.Identification on Documentation. – Tractor hydraulic fluid sold in bulk shall be identified on the manufacturer, packer, seller or distributor invoice, bill of lading, shipping paper, or other documentation with the information listed below:

(e) any obsolete equipment manufacturer specifications should be clearly identified as “obsolete” and accompanied by the following warning on the **invoice, bill of lading, shipping paper, or other documentation front package** in clearly legible font size and color **and in a manner reasonably calculated to draw the purchaser's attention to such warning:**

Caution: Some of the specifications are no longer deemed active by the original equipment manufacturer. Significant harm to the transmission, hydraulic system, seals, final drive or axles is possible when using this product in applications in which it is not intended.

The above warning is not required if the fluid claims to meet **and refers to the** current original equipment manufacturer's specifications **and/or specification, standard or code of practice issued by a nationally-recognized association and refers to thereby preceding specifications.**

3.XX.1.5. Storage Tank Labeling. – Each storage tank of tractor hydraulic fluid shall be labeled with the following:

(a) the brand name;

(c) 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 are those set by original equipment manufacturers **or a nationally-recognized association**;

Background/Discussion: See Appendix A, Page L&R-A101.

SWMA Report
Regional recommendation to NCWM on item status: <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 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>
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i> The latest language that was adopted at the NCWM 2019 Annual Meeting was not used by the submitter in their "item under consideration." The Committee recommends this item be withdrawn and have the submitter resubmit using the latest language.

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

**ITEM BLOCK 3 (B3) ENGINE FUELS & AUTOMOTIVE LUBRICANTS
INSPECTION LAW, SECTION 8.6 PROHIBITED ACTS.
METHOD OF SALE, SECTION 2.33 OIL. FUELS &
AUTOMOTIVE REGS. SECTIONS 2.14. ENGINE (MOTOR
OIL), 3.13. OIL, AND 7.2. REPRODUCIBILITY LIMITS**

B3: FLL-18.1 A Section 8. Prohibited Acts

B3: MOS-18.4 A Section 2.33. Oil

B3: FLR-18.5 A Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.

Source:

Independent Lubricant Manufacturers Association (ILMA)

Purpose:

Provide information to protect consumers from purchasing obsolete motor oils that can harm modern engines.

B3: FLL-18.1 A Section 8. Prohibited Acts

Item Under Consideration:

Amend NIST Handbook 130, Uniform Fuels and Automotive Lubricants Inspection Law, Section 8.6. Prohibited Acts.

Section 8. Prohibited Act

It shall be unlawful to:

8.6. Represent automotive lubricants with an S.A.E. (Society of Automotive Engineers) viscosity grade or API (American Petroleum Institute) service classification other than those ~~specified~~ by the intended purchaser.

(Added 1996) (Amended 20XX)

B3: MOS-18.1 A Section 2.33. Oil

Item Under Consideration:

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

2.33. Oil.

2.33.1. Labeling of Vehicle Engine (Motor) Oil. – Vehicle engine (motor) oil shall be labeled.

2.33.1.1. Viscosity. –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank, and any invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank, shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with SAE International’s latest version of SAE J300, “Engine Oil Viscosity Classification.”

***NOTE:** If an invoice or receipt from service on an engine has limited room for identifying the viscosity, brand, and service category, then abbreviated versions of each may be used on the invoice or receipt and the letters “SAE” may be omitted from the viscosity classification.*

(Note added 2014)

(Amended 2014)

2.33.1.2. Brand. –The label on any vehicle engine (motor) oil container and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle engine (motor) oil.

(Amended 2014)

2.33.1.3. Engine Service Category. –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the engine service category, or categories, displayed in letters not less than 3.18 mm (1/8 in) in height, as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”),” API Publication 1509, “Engine Oil Licensing and Certification System,” European Automobile Manufacturers Association (ACEA), “European Oil Sequences,” or other Vehicle or Engine Manufacturer standards as approved in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard.

(Amended 2014)

2.33.1.3.1. Vehicle or Engine Manufacturer Standard. –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in letters not less than 3.18 mm (1/8 in) in height. If the vehicle (motor) oil only meets a vehicle or engine manufacturer standard, the label must clearly identify that the oil is only intended for use where specifically recommended by the vehicle or engine manufacturer.

(Added 2014)

2.33.1.3.2. Inactive or Obsolete Service Categories. ~~–The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, Appendix A, Whenever the any vehicle engine (motor) oil in the a container, receptacle, dispenser, storage tank, or in bulk does not meet an active API service category as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”);” the front or forward facing-label of such vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary statement set forth in the latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil is declared obsolete by a vehicle or engine manufacturer, the front or forward-facing label of such vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary required by the vehicle or engine manufacturer. If a vehicle engine (motor) oil is identified as only meeting a vehicle or engine manufacturer standard, the labeling requirements in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard applies.~~

(Amended 2014 and 20XX)

2.33.1.4. Tank Trucks or Rail Cars. –Tank trucks, rail cars, and other types of delivery trucks that are used to deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service category or categories on such tank trucks, rail cars, and other types of delivery trucks. In lieu of such display requirements, the documentation defined in Section 2.33.1.5. Documentation shall be readily available for inspection.

(Amended 2013, ~~and~~ 2014 and 20XX)

2.33.1.5. Documentation. –When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the quantity of bulk engine (motor) oil delivered as defined in Sections 2.33.1.1. Viscosity, grade as defined by SAE J300 “Engine Oil Viscosity Classification,” 2.33.1.2. Brand; 2.33.1.3. Engine Service Category; the name and address of the seller and buyer; and the date and time of the sale. For inactive or obsolete service categories, the documentation shall also bear ~~a~~ the plainly visible cautionary statements as required in Section 2.33.1.3.2. Inactive or Obsolete Service Categories. Documentation must be retained at the retail establishment for a period of not less than one year.

(Added 2013) (Amended 2014 and 20XX)

(Added 2012) (Amended 2013, ~~and~~ 2014 and 20XX)

B3: FLR-18.1 A Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.

Item Under Consideration:

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

Section 3. Classification and Method of Sale

3.13. Oil.

3.13.1. Labeling of Vehicle Engine (Motor) Oil Required.

3.13.1.1. Viscosity. –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with the SAE International’s latest version of SAE J300, “Engine Oil Viscosity Classification.”

(Amended 2012 and 2014)

3.13.1.2. Brand. –The label on any vehicle engine (motor) oil container and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle engine (motor) oil.

(Added 2012 and 2014)

3.13.1.3. Engine Service Category. –The label on any vehicle engine (motor) oil container, receptacle, dispenser or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the engine service category, or categories, displayed in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height, as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”)” API Publication 1509, “Engine Oil Licensing and Certification System,” European Automobile Manufacturers Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine Manufacturer Standards” as provided in Section 3.13.1.3.1.

(Amended 2012 and 2014)

3.13.1.3.1. Vehicle or Engine Manufacturer Standard. –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height. If the vehicle (motor) oil only meets a vehicle or engine manufacturer standard, the label must clearly identify that the oil is only intended for use where specifically recommended by the vehicle or engine manufacturer.

(Added 2014)

3.13.1.3.2. Inactive or Obsolete Service Categories. ~~–The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”)”~~ Appendix A, Whenever the ~~any~~ vehicle engine (motor) oil in the a container receptacle, dispenser, storage tank or in bulk does not meet an active API service category as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy Conserving”),” the front or forward-facing label If a of such vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service

on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser or storage tank shall bear the plainly-visible cautionary statement set forth in the latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil is declared obsolete by a vehicle or engine manufacturer, the front of forward-facing label of such vehicle engine (motor) oil container, receptacle, dispenser or storage tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear the plainly-visible cautionary required by the vehicle or engine manufacturer.

(Added 2012) (Amended 2014 and 20XX)

3.13.1.4. Tank Trucks or Rail Cars. Tank trucks, rail cars, and types of delivery trucks that are used to deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service category or categories on such tank trucks, rail cars, and other types of delivery trucks. In lieu of such display requirements the documentation defined in Section 3.13.1.5. Documentation shall be readily available for inspection.

(Added 2012) (Amend 2013, ~~and~~ 2014 and 20XX)

3.13.1.5. Documentation. – When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery. This document must identify the quantity of bulk engine (motor) oil delivered as defined in Sections 3.13.1.1. Viscosity, grade as defined by the latest version of SAE J300 “Engine Oil Viscosity Classification”; 3.13.1.2. Brand; 3.13.1.3. Engine Service Category; the name and address of the seller and buyer; and the date and time of the sale. For inactive or obsolete service categories, the documentation shall also bear a plainly visible cautionary statement as required in Section 3.13.1.3.2. Inactive or Obsolete Service Categories. Documentation must be retained at the retail establishment for a period of not less than one year.

(Added 2013) (Amended 2014)

(Amended 2012, 2013, and 2014)

3.13.2. Labeling of Recreational Motor Oil.

3.13.2.1. Viscosity. The label on each container of recreational motor oil shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with the SAE International’s latest version of SAE J300, “Engine Oil Viscosity Classification.”

3.13.2.2. Intended Use. –The label on each container of recreational motor oil shall contain a statement of its intended use in accordance with the latest version of SAE J300, “Engine Oil Viscosity Classification.”

3.13.3. Labeling of Gear Oil.

3.13.3.1. Viscosity. –The label on each container of gear oil shall contain the viscosity grade classification preceded by the letters “SAE” in accordance with the SAE International’s latest version of SAE J306, “Automotive Gear Lubricant Viscosity Classification” or SAE J300, “Engine Oil Viscosity Classification.”

3.13.3.1.1. Exception. –Some automotive equipment manufacturers may not specify an SAE viscosity grade requirement for some applications. Gear oils intended to be used only in such applications are not required to contain an SAE viscosity grade on their labels.

3.13.3.2. Service Category. –The label on each container of gear oil shall contain the service category, or categories, in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height, as defined by the latest version of SAE J308, “Axle and Manual Transmission Lubricants.”

(Added 2004)

Section 7. Test Methods and Reproducibility Limits

7.2. Reproducibility Limits.

7.2.1. AKI Limits. – When determining the antiknock index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in the latest version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” Appendix X1 shall be acknowledged for enforcement purposes.

7.2.2. Reproducibility. – The reproducibility limits of the standard test method used for each test performed shall be acknowledged for enforcement purposes, except as indicated in Section 2.2.1. Premium Diesel Fuel and Section 7.2.1. AKI Limits. No allowance shall be made for the precision of the test methods for aviation gasoline or aviation turbine fuels.

(Amended 2008)

7.2.3. SAE Viscosity Grades for Engine Oils.—~~All values are critical specifications as defined in the latest version of ASTM D3244, “Standard Practice for Utilization of Test Data to Determine Conformance with Specifications.” The product shall be considered to be in conformance if the Assigned Test Value (ATV) is within the specification. With the exception of the low-temperature cranking viscosity, all values required to define SAE Viscosity Grades, as defined in the latest version of SAE J300, “Engine Oil Viscosity Classification”, are critical specifications as defined by the latest version of ASTM D3244.~~

(Added 2008) (Amended 20XX)

7.2.4. Dispute Resolution. – In the event of a dispute over a reported test value, the guidelines presented in the latest version of ASTM D3244, “Standard Practice for Utilization of Test Data to Determine Conformance with Specifications,” shall be used to determine the acceptance or rejection of the sample.

7.2.5. Additional Enforcement Action. – The Director may initiate enforcement action in the event that, based upon a statistically significant number of samples, the average test result for products sampled from the same source location is greater than the legal maximum or less than the legal minimum limits (specification value), posted values, certified values, or registered values.

(Added 2008) (Amended 2018)

Background/Discussion: See Appendix A, Page L&R-A102.

SWMA Report
Regional recommendation to NCWM on item status: <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 checked="" type="checkbox"/> Recommend as an Assigned Item on the NCWM agenda (To be developed by an NCWM Task Group or Subcommittee) <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i>
<p>In previous reports Section 2.14 had been included. The Committee reached out to Jeff Leiter who confirmed that in error this Section is still under consideration and needs to be added into the reporting.</p>

2.14. Engine (Motor) Oil. – Shall not be sold or distributed for use unless the product conforms to the following specifications:

- (a) performance claims **made regarding active performance categories, as** listed on the label shall be evaluated against the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification,” API 1509 “Engine Oil Licensing and Certification System,” European Automobile Manufacturers’ Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine Manufacturer Standards” as applicable;
- (b) **performance claims made regarding any obsolete performance categories, as listed on the label, shall be determined to meet the requirements of Section 3.13.1.3.2. “Inactive or Obsolete Service Categories” by displaying the appropriate cautionary labeling and**
- (c) the product shall meet its labeled viscosity grade specification as specified in the latest version of SAE J300, “Engine Oil Viscosity Classification.”

(Added 2004) (Amended 2014 **and 20XX**)

In addition, the header file for B3: FLR-18.1. should read 18.5 and B3: MOS-18.1 should read 18.4.

For Section 8. Prohibited Act the first word should “misrepresent” and not “represent.” This is being addressed editorially in NIST Handbook 130 (2020).

The word “statement” should be added after the term “cautionary” throughout the proposal.

In B3: FLI-18.1 Section 8.6. needs clarification as to what the submitter is intending.

The Committee is recommending this remain at FALS and the concerns be addressed.

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

ITEM BLOCK 4 (B4) E15 WAIVER: PRODUCT TRANSFER DOCUMENT REQUIREMENTS

B4: MOS-20.2 2.20.2. Documentation for Dispenser Labeling Purposes.
B4: FLR-20.3 3.2.5. Documentation for Dispenser Labeling Purposes.

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 reflect the regulatory changes finalized by the EPA that revise product transfer document (PTD) requirement for disclosure of the percentage concentration of ethanol in gasoline-ethanol blends, as revised in 40 CFR 80.

B4: MOS-20.2 2.20.2. Documentation for Dispenser Labeling Purposes.

Item Under Consideration:

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

1 **2.20.2. Documentation for Dispenser Labeling Purposes.** – The retailer shall be provided, at the time of
2 delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or other
3 documentation:

4 (a) Information ~~that complies with 40 CFR 80.1503~~ when the fuel contains ethanol as described below.

5 (Added 2014, Amended 20XX)

6 **(1) Per 40 CFR 80.1503, For gasoline containing less than 9 volume percent ethanol, the**
7 **following statement: “EX - Contains up to X% ethanol. The RVP does not exceed [fill in**
8 **appropriate value] psi.” The term X refers to the maximum volume percent ethanol**
9 **present in the gasoline.**

10 **(2) Per 40 CFR 80.1503, For gasoline containing 9 or more volume percent ethanol, a**
11 **conspicuous statement that the gasoline being shipped contains ethanol and the percentage**
12 **concentration of ethanol as described in 40 CFR 80.27(d)(3).**

13 **(3) To meet the requirements of 40 CFR 80.28(g)(8), for ethanol flex fuel intended for blending**
14 **with gasoline or gasoline-ethanol blends, to make gasoline containing not more than 15**
15 **volume percent ethanol, the following statement: “EXX contains XX% ethanol.” The term**
16 **XX refers to the volume percent ethanol present.**

17 **(Added 20XX)**

18 (b) For fuels that do not contain ethanol, information that complies with 40 CFR 80.1503 and a declaration
19 of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to
20 yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are
21 present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate
22 contributing the largest mass percent oxygen) or alternatively, use the phrase “contains MTBE or
23 other ethers.”

24 (c) Gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as “with”
25 or “containing” methanol.

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

27 **B4: FLR-20.3 3.2.5. Documentation for Dispenser Labeling Purposes.**

28 **Item Under Consideration:**

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

30 **3.2.5. Documentation for Dispenser Labeling Purposes.** – For automotive gasoline, automotive gasoline
31 oxygenate blends, ethanol flex fuel for blending or racing gasoline, the retailer shall be provided, at the time
32 of delivery of the fuel, on product transfer documents such as an invoice, bill of lading, shipping paper, or
33 other documentation:

34
35 (b) Information ~~that complies with 40 CFR 80.1503~~ when the fuel contains ethanol as described below.

36 (Added 2014, Amended 20XX)

37 **(1) Per 40 CFR 80.1503, For gasoline containing less than 9 volume percent ethanol, the**
38 **following statement: “EX - Contains up to X% ethanol. The RVP does not exceed [fill in**
39 **appropriate value] psi.” The term X refers to the maximum volume percent ethanol**
40 **present in the gasoline.**

41 **(2) Per 40 CFR 80.1503, For gasoline containing 9 or more volume percent ethanol, a**
42 **conspicuous statement that the gasoline being shipped contains ethanol and the percentage**
43 **concentration of ethanol as described in 40 CFR 80.27(d)(3).**

44 **(3) To meet the requirements of 40 CFR 80.28(g)(8), for ethanol flex fuel intended for blending**
45 **with gasoline or gasoline-ethanol blends, to make gasoline containing not more than 15**

volume percent ethanol, the following statement: “EXX contains XX% ethanol.” The term XX refers to the volume percent ethanol present.

(Added 20XX)

- (b) For fuels that do not contain ethanol, information that complies with 40 CFR 80.1503 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)

- (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 **and 20XX**)

Background/Discussion: See Appendix A, Page L&R-A104.

SWMA Report
Regional recommendation to NCWM on item status: <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 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> <p>Russ Lewis representing API provided a presentation (on the NCWM L&R supporting documents). There was considerable discussion for the pros and cons of this proposal.</p> <p>The Committee did not have enough fuels expertise, but concurs that this is an important topic. They would like to see the product coming through the nozzle have the specifications that are posted. Consumers need to know what they are getting. They are not sure how it will affect the regulators role in implementing this regulation. The Committee would like this item to be sent to FALS where the SME's can provide their technical expertise.</p>

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

FLR – UNIFORM FUELS AND AUTOMOTIVE LUBRICANTS REGULATION

FLR-20.2 1.23. Ethanol Flex Fuel. and 2.1. Gasoline and Gasoline-Oxygenate 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 NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation as follows:

1.23. Ethanol Flex Fuel. – Blends of ethanol and hydrocarbons restricted for use as fuel in ground vehicles equipped with flexible-fuel spark-ignition engines. **Ethanol Flex Fuel intended for blending with gasoline and gasoline ethanol blends shall contain certified components e.g., blending of ethanol flex fuel containing natural gas liquids is prohibited unless certified consistent with 40 CFR 80.28(g)(8) requirements.**
(Amended 2014 ~~and 20XX~~)

And

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 limits by more than:
(1) 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 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)

(Amended 2016, ~~and~~ 2018 ~~and 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)

Background/Discussion: See Appendix A, Page L&R-A107.

SWMA Report
<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 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> </p>
<p>Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i></p> <p>The Committee believes there could be misuse of Section 2.1.2(b). Once the sample is tested it could be in violation for being substandard. 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 does 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 National L&R Committee.</p>

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

POL – NCWM POLICY, INTERPRETATIONS AND GUIDELINES

POL-18.1 D Section 2.6.XX. Methods of Sale for Packages of Consumer Commodities – Federal Trade Commission (FTC) and Acceptable Common or Usual Declarations for Packages of Food – Food and Drug Administration (FDA).

Source:
NIST OWM

Purpose:
Provide NIST HB130 users with easy access to tables to identify the method of sales prescribed by the Federal Trade Commission (FTC) for products subject to that agency's regulation and the acceptable common or usual declarations permitted to appear on packages of food by the Food and Drug Administration.

Item Under Consideration:

Amend NIST Handbook 130, NCWM Policy, Interpretations and Guidelines as follows:

Note: NIST OWM is requesting editorial privileges to add items as they receive guidance from FDA or USDA as to what the acceptable common or usual declaration for a product is. To allow an opportunity for input, NIST OWM will place a notice in the Federal Register (FRN) prior to the next NCWM meeting and automatically update Section 2.6.XX. and list all changes to the amendment chart in front of NIST Handbook 130 following the NCWM Annual Meeting.

2.6.XX. Method of Sale for Packages of Consumer Commodities – Federal Trade Commission (FTC) and Acceptable Common or Usual Declarations for Packages of Food – Food and Drug Administration (FDA), and U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS).

The purpose of a method of sale requirement is to provide a uniform measurement unit for the sale of a commodity or product, so that consumers can compare quantities and prices and make informed purchasing decisions and value comparisons. Traditional methods of sale are established based upon long-term usage of that are prevalent among an industry or trade groups, which have gained widespread acceptance and use by both sellers and consumers. The decision to adopt a traditional method of sale is based on the unit of measurement being traceable to national standards.

Table A. Acceptable Common or Usual Net Quantity of Contents Declarations on Packages of Food is based in part upon FDA's, Fair Packaging and Labeling Manual, Guide 7699.2 (1978), other publications, and guidance received from FDA in response to inquiries. In addition, the information in the table is based on FDA's interpretation of 21 CFR 101.7 Subpart A. "Declaration of Net Quantity of Contents,"

21 CFR 101.7 Subpart A. and C.

(a) The principal display panel of a food in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure.

The statement shall be in terms of fluid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, or viscous, (See Note 1) or a mixture of solid and liquid;

Except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity that is customarily sold by dry measure.

If there is a firmly established general consumer usage and trade custom of declaring the contents of a liquid by weight, or a solid, semisolid, or viscous product by fluid measure, it may be used.

Whenever the Commissioner determines that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or a combination in the case of a specific packaged food does not facilitate value comparisons by consumers and offers opportunity for consumer confusion, he will by regulation designate the appropriate term or terms to be used for such commodity.

...

(c) When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information.

Note 1. FDA has not defined a "viscous" liquid, but a general definition is that it is typically a liquid that has a thick (for example, some syrups have between 66 % to 74 % solids) or sticky consistency and which flows slowly when poured. Another identifying characteristic is that significant variations between two or more density measurements are frequently, but not always found in tests of viscous liquids.

A product that is “concentrated or “semi-concentrated” (for example, “concentrated soup” typically has a high solids content and the instructions indicate that it is to be mixed with water or milk to “reconstitute” it) is typically treated as a “semi-solid” food.

Note 2. The U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) has primary jurisdictional authority over meat and poultry labeling but some food products containing certain percentages of meat and poultry fall under FDA jurisdiction. For example, spaghetti sauces with less than 2 percent cooked meat, pork and beans, bagel dogs and gravy mixes are exempt from FSIS regulations but are under FDA jurisdiction (this is called an “amenability” determination). See USDA publication “A Guide to Federal Food Labeling Requirements for Meat, Poultry and Egg Products (2007)

<u>Glossary of Acronyms and Terms</u>	
<u>Acronym</u>	<u>Term</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>
<u>CPG</u>	<u>FDA Compliance Policy Guideline</u>
<u>HB</u>	<u>Handbook</u>
<u>FDA</u>	<u>Food and Drug Administration</u>
<u>FDCA, or FD&C</u>	<u>Food, Drug, and Cosmetic Act</u>
<u>FPLA</u>	<u>Fair Packaging and Labeling Act</u>
<u>FPLM</u>	<u>Fair Packaging and Labeling Manual</u>
<u>FSIS</u>	<u>Food Safety and Inspection Service</u>
<u>FTC</u>	<u>Federal Trade Commission</u>
<u>I&G</u>	<u>NIST Handbook 130 – NCWM Policy, Interpretations and Guidelines</u>
<u>MOS</u>	<u>Uniform Method of Sale of Commodities</u>
<u>NBS</u>	<u>National Bureau of Standards (now referred to as NIST)</u>
<u>NBS HB 108</u>	<u>Weights and Measures Labeling Handbook (1971).</u>
<u>NIST</u>	<u>National Institute of Standards and Technology</u>
<u>NIST OWM</u>	<u>National Institute of Standards and Technology, Office of Weights and Measures</u>
<u>USC</u>	<u>Code of Laws of the United States of America</u>
<u>USDA</u>	<u>U.S. Department of Agriculture</u>

10

<u>Table A.</u> <u>Fair Packaging and Labeling Manual, Guide 7699.2 (1978)</u> <u>Acceptable Common or Usual Net Quantity of Contents Declarations on Packages of Food</u>		
<u>Product</u>	<u>Acceptable Common or Usual Declaration</u>	<u>Additional References (refer to 21 CFR 101.7)</u>
<u>Abalone, Canned in Brine</u>	<u>Net Weight</u>	<u>Refer to FDA FPLM, Guide 7622</u>

<u>Apples, Fresh</u>	<u>Dry Measure or Net Weight In addition, may also show min. size, range in size, and/or count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Anchovies (in salt)</u>	<u>Weight of Fish</u>	
<u>Apricots, canned</u>	<u>Net Weight</u>	
<u>Artichokes, canned</u>	<u>Drained Weight</u>	<u>Refer to FDA- FPLM, Guide 7563 see footnotes 2 and 3.</u>
<u>Asparagus, fresh</u>	<u>Net Weight</u>	
<u>Beans, fresh</u>	<u>Dry Measure or Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Berries, small open container</u>	<u>No Marking, Dry Measures on cellophane covered</u>	<u>Also refer to MOS, Section 1.12. Methods of Sale.</u> <u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u> <u>see footnote 1</u>
<u>Biscuits</u>	<u>Net Weight and Count</u>	
<u>Bloaters, smoked</u> <u>(a Bloater is a whole, ungutted, cold-smoked herring.)</u>	<u>Net Weight of Fish</u>	
<u>Bread</u>	<u>Net Weight</u>	<u>Also refer to MOS, Section 1.2. Methods of Sale.</u>
<u>Broth, Beef and Chicken</u>	<u>Net Weight</u>	<u>Beef and chicken broth labeling is regulated by the USDA and these products are included here for information.</u> <u>see footnote 4 for method of sale information, which is based on trade custom.</u>
<u>Cabbage, fresh</u>	<u>Dry Measure or Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Cake (decorations)</u>	<u>No markings</u>	
<u>Cantaloupes, fresh</u>	<u>Count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Catsup (ketchup or catchup)</u>	<u>Net Weight</u>	
<u>Celery, fresh</u>	<u>Count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Cereals</u>	<u>Net Weight</u>	
<u>Cheese (general)</u>	<u>Net Weight</u>	
<u>Cheese (limburger)</u>	<u>Net Weight</u>	
<u>Cherries, canned</u>	<u>Net Weight</u>	

<u>Cherries, maraschino</u>	<u>Net Weight or Dry Measure, No. of rows and minimum size</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Chicken, canned</u>	<u>Net Weight</u>	<u>Most chicken is regulated by the USDA and this product is included in this list for information only.</u> <u>Refer to 9 CFR 381.121(c)(5)</u>
<u>Citrus fruit (fresh)</u>	<u>Dry Measure</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Chow-Chow</u>	<u>Net Weight</u>	<u>Note: Chow chow is a relish (typically made from chopped and chunks of green tomatoes {and sometimes red tomatoes}, cabbage, mustard seed or powder, onions, hot peppers, sweet peppers, and vinegar.)</u>
<u>Citrus juices</u>	<u>Fluid Measure</u>	
<u>Clams, canned</u>	<u>Drained Weight</u>	<u>Refer to FDA-FPLM, Guides 7563 and 7622</u> <u>see footnotes 2 and 3.</u>
<u>Cookies (cakes)</u>	<u>Net Weight and Count</u>	
<u>Corn on Cob (canned)</u>	<u>Count</u>	<u>CPG Sec. 585.325 Corn on the Cob, Canned - Quantity of Contents Declaration.</u> <u>Refer to FDA-FPLM, Guide 7641</u>
<u>Cottonseed meal</u>	<u>Net Weight</u>	
<u>Crabmeat, canned (dry)</u>	<u>Net Weight</u>	
<u>Crabmeat in brine</u>	<u>Drained Weight</u>	<u>see footnote 2.</u>
<u>Crackers</u>	<u>Net Weight</u>	
<u>Cranberries</u>	<u>Dry Measure (e.g., cranberry barrel) also Net Weight</u>	
<u>Dates</u>	<u>Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Doughnuts (Donuts)</u>	<u>Net Weight and Count</u>	<u>Count alone is not sufficient, refer to FDA-FPLM, Guide 7605</u>
<u>Fish, canned</u>	<u>Net Weight</u>	
<u>Fish, fresh</u>	<u>No marking, Net Weight</u>	
<u>Fish, frozen</u>	<u>Net Weight, No marking</u>	
<u>Fish, salted or smoked</u>	<u>Net Weight and Count</u>	
<u>Fruits, canned</u>	<u>Net Weight</u>	
<u>Fruits, fresh</u>	<u>Dry Measure or Net Weight, also min size and/or count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Fruit juices</u>	<u>Fluid Volume</u>	

<u>Grains, sacked</u>	<u>Net Weight</u>	
<u>Grapefruit, fresh</u>	<u>Dry Measure, Size & Count, also Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Grapes, fresh</u>	<u>Net Weight & Dry Measure</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Greens, fresh</u>	<u>Dry Measure & Net Weight, also No marking</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Gum</u>	<u>Number of Sticks</u>	<u>refer to FDA FPLM, Guide 7613</u>
<u>Herring Roe</u>	<u>Net Weight</u>	
<u>Herring, spiced</u>	<u>Drained Weight Herring, Total Weight Contents</u>	<u>see footnotes 2 and 3.</u>
<u>Honey, comb</u>	<u>Net Weight</u>	
<u>Honey, strained</u>	<u>Net Weight</u>	
<u>Jelly</u>	<u>Net Weight</u>	
<u>Lemons, fresh</u>	<u>Count & Average Diameter, also Dry Measure</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Lettuce</u>	<u>Dozen Count & Dry Measure</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Lobster, canned (dry)</u>	<u>Net Weight</u>	
<u>Lobster meat in brine (cooked)</u>	<u>Drained Weight</u>	<u>Also refer to FDA-FPLM, Guide 7563 and 7622</u> <u>see footnotes 2 and 3.</u>
<u>Margarine</u>	<u>Net Weight</u>	<u>21 USC 21 Chapter 9, IV. FDCA, Section 347 Intrastate Sales of Colored Oleomargarine.</u>
<u>Mayonnaise</u>	<u>Fluid Volume</u>	<u>Also refer to 21 CFR 169.140</u>
<u>Meats</u>	<u>Net Weight</u>	<u>Most meat is regulated by USDA. refer to 9 CFR 317.2(h)</u>
<u>Microgreens</u>	<u>Net Weight</u>	<u>FDA responded to a NIST OWM inquiry (11/4/2014) which confirms that a solid food product should be sold by weight.⁵</u>
<u>Milk, sweetened, condensed</u>	<u>Net Weight</u>	<u>Also refer to MOS, Section 1.7. Other Milk Products</u>
<u>Milk, evaporated</u>	<u>Fluid Volume (Net Weight, may be declared on side panel(s))</u>	
<u>Molasses</u>	<u>Net Weight and/or Fluid Volume</u>	
<u>Mushrooms, fresh</u>	<u>Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Mushrooms, canned</u>	<u>Drained Weight</u>	<u>refer to 21 CFR 155.201, Subpart B</u> <u>see footnotes 2 & 3.</u>

<u>Mussels (canned)</u>	<u>Drained Weight</u>	<u>Refer to MOS, Section 1.5.2.5. Canned (heat processed) Mussels, Clams, Oysters, or Other Mollusks which requires these products be sold by weight.</u>
<u>Mustard, Prepared</u>	<u>Net Weight</u>	
<u>Oil, salad, olive</u>	<u>Fluid Volume</u>	
<u>Olives, green (in brine)</u>	<u>Drained Weight</u>	<u>see footnotes 2 and 3.</u>
<u>Olives, ripe</u>	<u>Drained Weight</u>	<u>see footnotes 2 and 3.</u>
<u>Oranges</u>	<u>Dry Measure & Count, also Net Weight & Size</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Oysters, fresh</u>	<u>Fluid Volume</u>	<u>Also refer to MOS, Section 1.5.2.3. Canned (heat processed) Mussels, Clams, Oysters, or Other Mollusks</u>
<u>Oysters, canned</u>	<u>Net Weight</u>	<u>Also refer to MOS, Section 1.5.2.5. Canned (heat processed) Mussels, Clams, Oysters, or Other Mollusks</u>
<u>Peaches, canned</u>	<u>Net Weight</u>	
<u>Peaches, fresh</u>	<u>Dry Measure, Min. Diameter, also Net Weight & Count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Peanut, butter</u>	<u>Net Weight</u>	
<u>Pears, canned</u>	<u>Net Weight</u>	
<u>Pears, fresh</u>	<u>Count, also Dry Measure, or Net Weight</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Peas, canned</u>	<u>Net Weight</u>	
<u>Pickles</u>	<u>Fluid Volume</u>	<u>Also refer to MOS, Section 1.8. Pickles</u> <u>21 CFR 101.7 (r) which permits sales of one or two whole pickles in clear plastic bags by count.</u>
<u>Pineapple, fresh</u>	<u>Count</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Plums, prunes, fresh</u>	<u>Net Weight or Dry Measure, Count & Size denoted by rows in top layer</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Potatoes, fresh</u>	<u>Net Weight or Dry Measure</u>	<u>Also refer to I&G, Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Rabbits, dressed</u>	<u>Net Weight</u>	
<u>Rolls and Buns</u>	<u>Net Weight and Count</u>	<u>refer to CFR 101.7 (a)</u> <u>refer to FDA FPLM, Guide.</u>
<u>Relish</u>	<u>Net Weight</u>	<u>For pickle relish: Refer to 21 CFR 101.7(r)</u>

<u>Rock Lobster, canned (dry)</u>	<u>Net Weight</u>	
<u>Roe, herring</u>	<u>Net Weight</u>	
<u>Salad dressing</u>	<u>Fluid Volume</u>	<u>Also refer to 21 CFR 169.150</u>
<u>Salmon, canned</u>	<u>Net Weight</u>	
<u>Sardines, canned</u>	<u>Net Weight</u>	
<u>Sauces</u>	<u>Fluid volume</u>	<p><u>When the sauce is a free-flowing liquid (e.g., “Hot Sauce or “Worcestershire Sauce”) it must be sold by fluid volume.</u></p> <p><u>When the sauce is a viscous or slow flowing liquid or a mixture of solids and liquids it must be sold by net weight (e.g., “Chili Sauce,” “Cocktail Sauce,” “Tomato Sauce,” “Spaghetti Sauce”).</u></p>
<u>Sauerkraut, (unprocessed in glass)</u>	<u>Fluid Volume</u>	
<u>Shrimp, canned (wet)</u>	<u>Drained Weight</u>	<u>refer to FDA FPLM, Guide 7563 footnotes 2 and 3.</u>
<u>Shrimp, canned (dry)</u>	<u>Net Weight</u>	
<u>Syrup</u>	<u>Fluid Volume or Net Weight</u>	
<u>Soups, canned (liquid single strength)</u>	<u>Fluid Volume</u>	<p><u>Soups which contain meat and poultry are subject to the regulations of the USDA and packages bear a seal of inspection by that agency.</u></p> <p><u>For method of sale labeling refer to 9 CFR 317.2 for meat products and 9 CFR 381.121 for poultry products</u></p>
<u>Soups, canned (condensed & semi-condensed)</u>	<u>Net Weight</u>	
<u>Tea</u>	<u>Net Weight</u>	
<u>Tea bags</u>	<u>Net Weight & Count</u>	<u>refer to CFR 101.7(a) a solid food must be sold by weight or count but, count alone is not sufficient for this food.</u>
<u>Toddler Food (e.g., ravioli and vegetables in a single tray.)</u>	<u>Net Weight</u>	<u>FDA responded to a NIST OWM inquiry (9/20/17) - A food entree for toddlers (comprised of ravioli and peas and carrots) included a drained weight declaration for the vegetables. FDA that the quantity of the vegetables should be declared by net weight and not drained weight.⁵</u>

<u>Tomatoes, canned</u>	<u>Net Weight</u>	
<u>Tomatoes, fresh</u>	<u>Net Weight or Dry Measure, Size denoted by Rows in top layer</u>	<u>Also refer to I&G Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Tuna fish, canned</u>	<u>Net Weight or, Drained Weight*</u>	<u>*Several packers have permission to temporarily label by drained weight. Refer to page 35362 Federal Register / Vol. 79, No. 119 / Friday, June 20, 2014 / Notices – “FDA - Canned Tuna Deviating from Identity Standard;”</u>
<u>Vegetables, canned</u>	<u>Net Weight</u>	
<u>Vegetables, fresh</u>	<u>Dry Measure or Net Weight, also Count</u>	<u>Also refer to I&G Section 2.3.2. Fresh Fruits and Vegetables.</u>
<u>Water, infused (e.g., with pieces of fruit or vegetables)</u>	<u>Fluid Volume</u>	<u>FDA responded to a NIST OWM inquiry (5/24/2017) in regard to containers of water sold at retail with pieces of fruit, vegetable or herb to infuse flavor. FDA responded these products should be sold by fluid measure.⁵</u>
<u>Yogurt, drinkable/pourable</u>	<u>Fluid Volume</u>	<u>FDA responded to a NIST OWM inquiry (5/24/2018) regarding the method of sale for containers of pourable yogurt and smoothies. FDA responded these products should be sold by fluid measure.⁵</u>

¹Refer to Subpart G—Exemptions from Food Labeling Requirements –21 CFR 101.100 Food; exemptions from labeling. Subpart (c) An open container (a container of rigid or semi-rigid construction, which is not closed by lid, wrapper, or otherwise other than by an uncolored transparent wrapper which does not obscure the contents) of a fresh fruit or fresh vegetable, the quantity of contents of which is not more than 1 dry quart, shall be exempt from the labeling requirements of sections 403(e), (g)(2) (with respect to the name of the food specified in the definition and standard), and (i)(1) of the act; but such exemption shall be on the condition that if two or more such containers are enclosed in a crate or other shipping package, such crate or package shall bear labeling showing the number of such containers enclosed therein and the quantity of the contents of each

²Drained Weight – When required. For decades, on a case-by-case basis, under both the Federal Food Drug and Cosmetic Act (FD&C) and the Fair Packaging and Labeling Act (FPLA) FDA has advised firms that the net contents declaration should include the packing medium if it is generally consumed as part of the food. Conversely, where solid foods are packed in a salt brine or other medium that is always, or almost always, discarded before serving, the agency has expected that the label would disclose the drained weight.

³Net Weights and Drained Weight Declaration May Appear on Package Labels. This interpretation by the FDA appears on page 9856 in the Feder Register/Vol. 62/Tuesday March 4, 1997/ Proposed Rules

⁴In a June 3, 1998 letter to Campbell Soup Company from the USDA, Food Safety and Inspection Service (FSIS), Office of Policy Program Development and Evaluation the trade custom of labeling the net quantity of contents of packages of beef and chicken broth by net weight instead fluid measure was recognized. (copy available from the NIST Office of Weights and Measures)

⁵A copy of the correspondence is available by contacting the NIST Office of Weights and Measures at (301) 975-4004 or email: OWM@nist.gov

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<p align="center"><u>Table B.</u> <u>Method of Sale – Federal Trade Commission</u></p>	
<p><u>The Net Quantity Declaration designated in this chart is that one used on the most common form of packaging for each commodity. If the product is packaged in multiple units or with other commodities, see Multiunit Package, Variety Package, or Combination Package, as appropriate. As noted below NIST HB 130 Uniform Regulation for the Method of Sale of Commodities (UMSCR) also includes methods of sale for several products or commodities. Details on labeling requirements are in NIST HB 130 Uniform Packaging and Labeling Regulation (UPLR).</u></p>	
<u>Product or Commodity</u>	<u>Net Quantity of Contents Declaration</u>
<u>Aerosol Containers</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. “Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure”).</u>
<u>Air Freshener</u>	
<u>Aerosol</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. “Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure”).</u>
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Cake</u>	<u>Net Weight</u>
<u>Aluminum Foil</u>	
<u>Cooking & Bakeware</u>	<u>Count and inside dimensions (length, width, and depth, or diameter and depth). Depth of less than 5 cm (2 in) and capacity are optional. (See UPLR Section 10.8. Measurement of Container-Type Commodities – How Expressed).</u>
<u>Wrap</u>	<u>See Food Wraps</u>
<u>Bags</u>	
<u>Garbage, Trash, Food Storage, Leaf, Lunch, etc.</u>	<u>Count and dimensions (width and length for non-gusseted; width, depth, and length for gusseted). Capacity is optional. (see UMSCR Section 2.13. Polyethylene).</u>
<u>Vacuum Cleaner, Disposable</u>	<u>Count. (Make and model of vacuum for which intended, and name and place of business must appear on the principal display panel.)</u>
<u>Bathmats, paper</u>	<u>Count and dimensions (length and width in millimeters or centimeters and inches).</u>
<u>Bathroom Tissue</u>	<u>Total square meters and square feet, number of rolls (if more than one), number of tissues per roll, ply, plus length and width of each tissue in centimeters and inches.</u>

<u>Batteries, Household</u>	<u>Count. (Voltage and/or size are factors of identity, not quantity.)</u>
<u>Bed Sheet, Paper</u>	<u>Dimensions (length and width of finished item in millimeters or centimeters and inches).</u>
<u>Bowls (Paper Foil, Plastic, etc.)</u>	<u>Count and dimensions. (Depth and diameter (outer top rim) in inches.) Depth of less than 5 cm (2 in) and capacity are optional.</u>
<u>Boxes, Food Storage</u>	<u>Count and dimensions (length, width and depth). Capacity is optional. (see UPLR Section 10.8. Measurement of Container-Type Commodities – How Expressed).</u>
<u>Bulb, Light</u>	<u>Count, if more than one. Voltage, wattage, lumens, size, etc., are factors of identity, not quantity.</u>
<u>Butane Fuel</u>	<u>Net Weight</u>
<u>Calking Compounds</u>	<u>Fluid Measure</u>
<u>Candle</u>	
<u>Uniform Width or Diameter</u>	<u>Dimensions (length and diameter or width, in millimeters or centimeters and inches).</u>
<u>Tapered or irregularly shaped figures, numbers, etc.</u>	<u>Length or height in millimeters or centimeters and inches. (diameter need not be expressed – refer to 16 CFR 501.7)</u>
<u>Chamois</u>	
<u>Full Skin (shape of the animal)</u>	<u>Total square meters and square feet</u>
<u>Cut Skin (Square, Rectangular, or Pocket)</u>	<u>Total square meters and square inches followed in parentheses by square feet if more than one square foot.</u>
<u>Charcoal Briquets</u>	<u>Net Weight</u>
<u>Christmas Decorations</u>	
<u>Balls</u>	<u>See Ornaments</u>
<u>Bulbs</u>	<u>See Bulb, Light</u>
<u>Garlands</u>	<u>See Garlands</u>
<u>Icicles or Tinsel</u>	<u>Count, plus length of strands</u>
<u>Ornaments</u>	<u>See Ornaments</u>
<u>Cigarette Paper</u>	<u>Count</u>
<u>Cleaning Compound</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Powder, Cake, or Paste</u>	<u>Net Weight</u>
<u>Clothesline</u>	<u>See Cordage</u>
<u>Combination Package</u>	<u>Count, weight volume, dimensions, or a combination thereof, for each commodity included. (see UPLR Section 10.5. Combination Packages.)</u>
<u>Cooking and Bakeware Containers (Foil and Paper</u>	<u>See Aluminum Foil</u>

<u>Cordage</u>	<u>Length in meters and feet (followed in parentheses by length in yards). Ply and diameter are optional. (Breaking strength and size designation are elements of identity.)</u>
<u>Cups</u>	
<u>Drinking</u>	<u>Count, plus fluid capacity (see UPLR Section 10.8.3 Terms regarding the optional use of terms such as “fluid” with the capacity declaration.)</u>
<u>Nut and Party</u>	<u>Count, plus dimensions (top outside diameter, or length and width). Capacity is optional.</u>
<u>Cooking and Baking (Foil or Paper)</u>	<u>Count and inside dimensions (diameter and depth). Depth of less than 5 cm (2 in) and capacity are optional.</u>
<u>Deodorizer</u>	
<u>Aerosol</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. “Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure”).</u>
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Cake</u>	<u>Net Weight</u>
<u>Detergent</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Powder, Cake, or Granular</u>	<u>Net Weight</u>
<u>Diapers, Disposable</u>	<u>Count and dimensions (length and width in millimeters or centimeters and inches). Dimensions may be omitted if diaper is in permanent pre-fold or form-fitted shape.</u>
<u>Distilled Water</u>	<u>Fluid Measure</u>
<u>Doilies, Paper</u>	<u>Count, plus dimensions (length and width, or diameter in millimeters or centimeters or inches).</u>
<u>Drop Cloth (Plastic)</u>	<u>Total square meters and square feet, plus length and width in the largest whole unit measurements.</u>
<u>Dyes and Tints (Household)</u>	
<u>Powder</u>	<u>Net Weight</u>
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Emory Cloth (Paper)</u>	<u>See Sandpaper</u>
<u>Eyeglass Tissue</u>	<u>Count</u>
<u>Facial Tissue</u>	<u>Count, ply, plus length and width of each tissue in millimeters or centimeters and inches.</u>
<u>Film</u>	
<u>Bulk or Movie</u>	<u>(see UPLR Section 11.22. Camera Film, Recording Tape, Audio Recording Tape and Other Image and Audio Recording Media Intended for Retail Sale and Consumer Use). Number of meters or feet of usable film only.</u>
<u>Still</u>	<u>Number of exposures. Length and width of individual exposures in millimeters and inches are optional.</u>

<u>Filters, Coffee</u>	<u>Count and dimensions (length and width, or diameter).</u>
<u>Fireplace Wood (See Section 2.4. in UMSCR)</u>	
<u>Cord Wood (Packaged)</u>	<u>Cubic feet and liters (see UMSCR Section 2.4. Fireplace and Stove Wood.”)</u>
<u>Compressed Log</u>	<u>Net Weight</u>
<u>Flints, Lighter</u>	<u>Count</u>
<u>Food Storage</u>	
<u>Bags</u>	<u>See Bags</u>
<u>Boxes</u>	<u>See Boxes, Food Storage</u>
<u>Food Wrap (Plastic, Paper, Foil, etc.) (See Section 6.9. “Bi-dimensional Commodities” in the UPLR).</u>	<u>Total square meters and square feet, plus length and width in largest whole measurement. (see UPLR Section 6.9. Bi-Dimensional Commodities.)</u>
<u>Fuses, Household</u>	<u>Count (if more than one). Amperage, type, voltage, size, etc., are factors of identity, not net quantity.</u>
<u>Garden Bags</u>	<u>See Bags</u>
<u>Garlands</u>	<u>Length in meters and feet (followed in parentheses by yards). Ply and/or width in inches are optional.</u>
<u>Glasses, Disposable</u>	<u>Count, plus fluid capacity of each glass.</u>
<u>Glue</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Powdered</u>	<u>Net Weight</u>
<u>Grease, Household</u>	<u>See Lubricants, Household</u>
<u>Incense</u>	<u>Count</u>
<u>Laundry Supplies</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Aerosol</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. “Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure”).</u>
<u>Powder or Solid</u>	<u>Net Weight</u>
<u>Leaf Bags</u>	<u>See Bags</u>
<u>Light Bulbs</u>	<u>See Bulbs, Light</u>
<u>Lighter Fuel</u>	
<u>Non-pressurized</u>	<u>Fluid Measure</u>
<u>Pressurized (e.g., Butane)</u>	<u>Net Weight</u>
<u>Logs, Compressed</u>	<u>See Fireplace Wood</u>
<u>Lubricants, Household</u>	
<u>Liquid (Oil)</u>	<u>Fluid Measure</u>

<u>Powder, Paste, Solid, Semi-Solid, etc.</u>	<u>Net Weight</u>
<u>Lunch Bag</u>	<u>See Bags</u>
<u>Matches</u>	
<u>Wooden (Kitchen, Fireplace, etc.)</u>	<u>Count plus length if they are extra-long intended for fireplace use, etc.</u>
<u>Book-Matches (By the Box)</u>	<u>Count (number of books, number of matches per book, total number of matches).</u>
<u>Mucilage</u>	<u>Fluid Measure</u>
<u>Multi-Unit Package</u>	<u>Count, plus weight, measure, or volume for each unit, followed by the total weight, measure, or volume, as appropriate. (see UPLR Section 10.4. Multiunit Packages.)</u>
<u>Napkins, Paper</u>	<u>Count, ply, plus length and width of each napkin in inches.</u>
<u>Oil, Household</u>	<u>See Lubricants, Household</u>
<u>Ornaments, Christmas</u>	<u>Opaque package – count and dimensions. Count only, if ornaments are clearly visible to retail purchaser at time of purchase. (refer to 16 CFR 501.2)</u>
<u>Paper: Crepe, Shelf, or Wrapping (Not Gift Wrap)</u>	<u>Total square area, plus length and width in largest whole measurements.</u>
<u>Paper Streamers</u>	<u>See Tape</u>
<u>Paste, Household</u>	<u>Fluid Measure</u>
<u>Patching Plaster</u>	<u>Net Weight</u>
<u>Pillow Case, Paper</u>	<u>Dimensions (length and width of finished item in centimeters and inches only).</u>
<u>Pipe Cleaners</u>	<u>Count. Length for cleaners shorter or longer than the standard 152.4 mm (6 inches).</u>
<u>Place Mats, Paper</u>	<u>Count and dimensions (length and width in centimeters and inches only).</u>
<u>Plastic Food Wrap</u>	<u>See Food Wraps</u>
<u>Plates, Disposable</u>	<u>Count and outside dimensions (length and width or diameter, in centimeters and inches).</u>
<u>Polish Cloth, Impregnated</u>	<u>Dimensions (total square area plus length and width in the largest whole measurements).</u>
<u>Polish</u>	
<u>Liquid</u>	<u>Fluid Measures</u>
<u>Aerosol</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. “Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure”).</u>
<u>Powder, Granule, Cake, or paste</u>	<u>Net Weight</u>
<u>Propane Fuel</u>	<u>Net Weight</u>
<u>Rope, Household</u>	<u>See Cordage</u>
<u>Rubber Bands</u>	<u>Net Weight</u>

<u>Sandpaper (Fine, Medium, or Coarse, Grit, Etc.)</u>	
<u>One Grit Only (Fine, Medium or Coarse)</u>	<u>Count and dimensions of each sheet (length and width in centimeters and inches).</u>
<u>Assorted Grits</u>	
a. <u>Sheet Count for Each Type of Grit is Constant.</u>	<u>Count of sheets per each type of grit, dimensions of each sheet (length and width in centimeters and inches), plus total sheet count.</u>
b. <u>Total Sheet Count is Constant, but Sheet Count for Each Type of Grit Varies from Package to Package.</u>	<u>Count and dimensions of each sheet (length and width in centimeters and inches). Identity must include term, "Assorted Miscellaneous Grits."</u>
<u>Scouring Pads</u>	
<u>Steel Wool, Metal Coil, Plastic, Etc.</u>	<u>Count plus dimensions (length, width and depth in centimeters and inches) for rectangular or square shaped pads.</u>
<u>Soap</u>	
<u>Powder, Flake, Chip, Poufs, Cake, Ball, etc.</u>	<u>Net Weight</u>
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Solder</u>	<u>Net Weight in only. Percentage of composition, diameter, and core size are factors of identity not quantity.</u> <u>For Solder containing precious metals (see 16 CFR 501.8) Solder and brazing alloys containing precious metals when packaged and labeled for retail sale are exempt from the net quantity statement requirements of part 500 of this chapter which specify that all statements of weight shall be in terms of avoirdupois pound and ounce provided the net quantity declaration is stated in terms of the troy pound and ounce and the term troy is used in each declaration.</u>
<u>Solder Flux</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Paste</u>	<u>Net Weight</u>
<u>Spackling Compound</u>	<u>Net Weight</u>
<u>Sponge (Cellulose, Rubber, etc.)</u>	
<u>Standard Shapes</u>	<u>Dimensions (length, width and thickness or diameter and thickness, in centimeters and inches).</u>
<u>Irregular Dimensions</u>	<u>Count, followed by the phrase "Irregular dimensions."</u>
<u>Steel Wool, for finishing and polishing pads</u>	<u>Count. Total net weight is optional.</u>
<u>Straws, Drinking</u>	<u>Count and length. Inside diameter is optional.</u>
<u>String</u>	<u>See Cordage</u>
<u>Table Cover, Paper</u>	<u>Dimensions (length and width in centimeters and inches).</u>
<u>Tableware (Plastic Cutlery)</u>	<u>Count (See Variety Package)</u>

<u>Tape</u>	<u>Dimensions (width in centimeters and inches followed by length in largest whole measurement (e.g., meters and yards.)</u>
<u>Tissue</u>	<u>See Bathroom Tissue and Facial Tissue</u>
<u>Toothpicks</u>	<u>Count</u>
<u>Towels, Paper</u>	
<u>Roll</u>	<u>Total square meters and square feet, roll count (if more than one), number of towels per roll, ply, length and width of individual towels in centimeters and inches.</u>
<u>Single</u>	<u>Dimensions (length and width in centimeters and inches.)</u>
<u>Trash Bags</u>	<u>See Bags</u>
<u>Twine</u>	<u>See Cordage</u>
<u>Vacuum Cleaner Bags</u>	<u>See Bags</u>
<u>Variety Package</u>	<u>Weight, volume, measure and count, as appropriate, for each identical commodity, followed by total statement of quantity, as appropriate. (see UPLR Section 10.6. Variety Packages.)</u>
<u>Water, Distilled</u>	<u>Fluid Measure</u>
<u>Wax Paper</u>	<u>See Food Wraps</u>
<u>Wax</u>	
<u>Liquid</u>	<u>Fluid Measure</u>
<u>Aerosol</u>	<u>Net Weight (Also refer to UPLR, Section 10.3. "Aerosols and Other Pre-Pressurized Containers Dispensing Product under Pressure").</u>
<u>Paste, Cake, and Powder</u>	<u>Net Weight</u>

1

2 **Background/Discussion:** See Appendix A, Page L&R-A110.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input checked="" type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports)

The Committee believes that this is good information. There is concern that companies may use this as a guide and will conflict with the regulation. For this primary concern the Committee is recommending this item be Withdrawn.

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

NET – HANDBOOK 133

NET-16.1 D Recognize the Use of Digital Density Meters

Source:
Missouri

Purpose:
Allow the use of digital density meters for package checking testing of viscous fluids such as motor oils, diesel exhaust fluid (DEF), and antifreeze.

Item Under Consideration:
Amend NIST Handbook 133 as follows:

Develop specific test procedures for NIST Handbook 133, “Chapter 3. Test Procedures – For Packages Labeled by Volume” that would recognize the use of digital density meters in lieu of volumetric flasks and thermometers when testing certain viscous fluids such as motor oil, DEF, antifreeze, syrups, etc.

Background/Discussion: See Appendix A, Page L&R-A111.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports) The Committee reviewed the modified proposal and data submitted by Mr. Ron Hayes. This procedure needs to be written in generic format to meet specifications for meters that are in the marketplace. The Committee would like this item to be Developing. They also request that the submitter change his purpose statement or apply the test procedure to what is currently stated in the document.

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

NET-20.1 Section: 3.4.2.b. Test Procedure for Testing Mayonnaise, Salad Dressing, and Water Immiscible Products with no Smooth and Level Surface.

Source:

Wisconsin Department of Agriculture, Trade, and Consumer Protection, Bureau of Weights and Measures

Purpose:

Simplify the calculations conducted during volumetric test procedures for viscous fluids - headspace method of testing net quantities of packaged goods.

Item Under Consideration:

Amend NIST Handbook 133 as follows:

3.4. Test Procedures

...

b. Test Procedure for Testing Mayonnaise, Salad Dressing, and Water Immiscible Products with no Smooth and Level Surface

Use the following volumetric headspace procedure to determine volume when the commodity does not have a level surface (e.g., mayonnaise, salad dressing, and other water immiscible products without a level liquid surface). The procedure guides the inspector to determine the amount of headspace above the product in the package and the volume of the container. Determine the product volume by subtracting the headspace volume from the container volume. Open and test every package in the sample.

(Amended 2010)

Note: Make all measurements on a level surface.

1. Bring the temperature of both the commodity and the water used to measure the volume to the appropriate temperature designated in Table 3-1. "Reference Temperatures for Liquids."
2. Open the first package and place a disk larger than the package container opening over the opening.
3. Measurement Procedure:
 - Deliver water from a flask (or flasks), graduate, or buret, through the central hole in the disk onto the top of the product until the container is filled. If it appears that the contents of the flask may overflow the container, do not empty the flask. Add water until all of the air in the container has been displaced and the water begins to rise in the center hole of the disk. Stop the filling procedure when the water fills the center disk hole and domes up slightly due to the surface tension. Do not add additional water after the level of the water dome has dropped.
 - If the water dome breaks on the surface of the disk, the container has been overfilled and the test is void; dry the container and start over.
4. To obtain the headspace capacity for net quantity determinations, record the volume of water used to fill the container. ~~and subtract 1 mL (0.03 fl oz), which is the amount of water held in the hole in the disk specified.~~
5. Empty, clean, and dry the package container.
6. Using Steps 3 and 4 of this procedure, refill the package container with water measured from a volumetric measure to the maximum capacity of the package, ~~subtract 1 mL (0.03 fl oz),~~ and record the amount of water used as the container volume for net quantity determinations; and

7. From the container volume determined in Step 6 of this procedure, subtract the headspace capacity in Step 4 of this procedure to obtain the measured volume of the product.

Note: To find the volume of the package headspace in step 4, or the maximum capacity of the package in step 6., subtract 1 ml (0.03 fl oz) from the measurement recorded in each of those steps, which is the amount of water held in the hole in the specified disk.

8. Calculate the “package error” for that volume where “package error” equals labeled volume minus the measured volume of the product.

(Amended 20XX)

- 1 And Amend the Worksheet for Packages Labeled by Fluid Volume – Headspace Procedure as follows:

Date:		NIST Handbook 133 - Category A – Lot Size _____ Sample Size _____								
Worksheet for Packages Labeled by Fluid Volume - Headspace Procedure										
Labeled Quantity		Converted to fluid ounce or SI		Largest Quantity		Manufacturer:				
						Product:				
						Lot Code:				
		What is the Reference Temperature in Table 2-6 for this product? <input type="checkbox"/> °C <input type="checkbox"/> °F								
Sample Number	Product Temperature in <input type="checkbox"/> °C <input type="checkbox"/> °F at Time of Test ± 2 °C (5 °F)	Test Comments: “If prescribed disks are used subtract 1 mL (0.03 fl oz) (0.27 fl dr) from the volume <u>measurement to determine the corrected headspace and corrected container volume</u> if those volumes are needed for reporting purposes”.							Package Error in: <input type="checkbox"/> mL <input type="checkbox"/> fluid drams	
		Delivery Measured in: ____ mL ____ Fluid Drams					Product Volume = (Container Volume Measurement – Total Headspace Volume Measurement)		Compare Product Volume to Labeled Quantity	
		HEADSPACE				Total Headspace Volume Measurement	Container Volume Measurement			
		Delivery 1	Delivery 2	Delivery 3	Delivery 4					
		1.								
2.										
3.										
4.										

5.										
6.										
7.										
8.										
9.										
10.										
11.										
12.										
Step 1. What is the MAV for the labeled quantity of this package in Table 2-6? <input type="checkbox"/> _____ mL <input type="checkbox"/> _____ Fluid Ounces <input type="checkbox"/> _____ Fluid Drams (8 drams per Fl. Oz.)								Total Package Error		
Step 2. How many minus errors exceed the MAV _____? If the number of unreasonable errors exceeds the number permitted for the sample size in Table 2-1 the sample fails, go to Step 7. If there are no Unreasonable Errors sum the package errors and calculate the Average Error and enter it in Step 3. Go to Step 4.								Step 3: Average Package Error		
If the Average Error is zero or a positive number the sample passes. Go to Step 7. If the Average Error is a negative number go to Step 5. Step 5. Calculate the Sample Standard Deviation (s) and multiply (s) by the Sample Correction Factor (SCF) for the sample size to obtain the Sample Error Limit (SEL). Go to Step 6. (s) _____ \times (SCF) _____ = SEL _____								Step 6. Disregarding the signs, is the SEL in Step 5 larger than the Average Package Error in Step 3? If yes, the sample passes, go to Step 7 and approve the lot. If no, the sample fails, go to Step 7 and reject the lot.		
Step 7. Action Taken: <input type="checkbox"/> Lot Rejected <input type="checkbox"/> Lot Approved										
Random Numbers: enter the numbers as you select them in the top row and reorder them in the bottom row.										

1

2 **Background/Discussion:** See Appendix A, Page L&R-A113.

SWMA Report	
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 <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>
Comments and justification for the regional recommendation to NCWM: <i>(This will appear in NCWM reports)</i> The Committee does not feel this change is necessary and the current test procedure is acceptable as is. The Committee is recommending this item be Withdrawn.

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

NET-20.2 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 NIST 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 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: See Appendix A, Page L&R-A114.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal) <input type="checkbox"/> Recommend Withdrawal of the Item from the NCWM agenda (In the case of new proposals, do not forward this item to NCWM) <input type="checkbox"/> No recommendation from the region to NCWM (If this is a new proposal, it will not be forwarded to the national committee by this region)
Comments and justification for the regional recommendation to NCWM: (This will appear in NCWM reports) 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.

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

OTH – OTHER ITEMS

OTH-07.1 D Fuels and Lubricants Subcommittee

Source:

NCWM Fuels and Lubricants Subcommittee

Purpose:

Update the Uniform Fuels and Automotive Lubricants Regulation in NIST Handbook 130 including major revisions to fuel ethanol specifications. Another task will be to update the Basic Engine and Fuels, Petroleum Products, and Lubricants Laboratory Publication.

Item Under Consideration:

This item is under development. All comments should be directed to Mr. Bill Striejewski, FALS Chair at (775) 353-3792, wstrijewski@agri.state.nv, or Ms. Lisa Warfield, NIST Technical Advisor at (301) 975-3308, lisa.warfield@nist.gov.

Background/Discussion: See Appendix A, Page L&R-A114.

SWMA Report
Regional recommendation to NCWM on item status: <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 (To be developed by an NCWM Task Group or Subcommittee) <input checked="" type="checkbox"/> Recommend as a Developing Item on the NCWM agenda (To be developed by source of the proposal)

<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) There was no update provided.

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

OTH-11.1 D Packaging and Labeling Subcommittee

Source:

NCWM Packaging and Labeling Subcommittee

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 Chairperson, eight voting members, and anyone interested in packaging and labeling standards.

Item Under Consideration:

This item is under development. All comments should be directed to Mr. Chris Guay, Packaging and Labeling Subcommittee Chair at (513) 983-0530, guay.cb@pg.com or Mr. David Sefcik, NIST Technical Advisor at (301) 975-4868, david.sefcik@nist.gov.

Background/Discussion: See Appendix A, Page L&R-A115.

SWMA Report
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) There was an updated provided by Chris Guay (PALS Chair), this information is documented in Appendix A for ongoing projects.

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

-
- 1 Mr. Mauricio Mejia, Florida | Committee Chair
2 Mr. John Stokes, South Carolina | Member
3 Mr. Gary Milton, Virginia | Member
4 Mr. Chad Parker, North Carolina | Member
5 Ms. Vanessa Benchea, Florida | Member
6

Laws and Regulations Committee

Appendix A
Background/Discussion on Agenda Items
of the
Laws and Regulations (L&R) Committee

Subject Series List	
NIST Handbook 130 – General	GEN Series
Uniform Laws	
Uniform Weights and Measures Law	WAM Series
Uniform Weighmaster Law	WMR Series
Uniform Engine 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
NIST Handbook 133	NET Series
Other Items	OTH Series

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Table B
Glossary of Acronyms and Terms

Acronym	Term	Acronym	Term
AKI	Minimum Antiknock Index	LNG	Liquefied Natural Gas
API	American Petroleum Institute	NCWM	National Conference on Weights and Measures
ASTM	ASTM International	NEWMA	Northeastern Weights and Measures Association
CFR	Code of Federal Regulations	NIST	National Institute of Standards and Technology
CNG	Compressed Natural Gas	OWM	Office of Weights and Measures
CWMA	Central Weights and Measures Association	PALS	Packaging and Labeling Subcommittee
FALS	Fuels and Lubricants Subcommittee	S&T	Specifications and Tolerances
FDA	Food and Drug Administration	SWMA	Southern Weights and Measures
FPLA	Fair Packaging and Labeling Act	UPLR	Uniform Packaging and Labeling Regulation
FTC	Federal Trade Commission	USNWG	U.S. National Work Group
HB	Handbook	WWMA	Western Weights and Measures Association
L&R	Laws and Regulations		

Details of All Items
(In order by Reference Key)

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 HB 133 APPENDIX F. GLOSSARY

B1: PAL-19.1	D	Handbook 130 Uniform Packaging and Labeling Regulation: Section 2.8. Multiunit Package
B1: NET-19.1	D	Handbook 133: Section 1.2.4. Maximum Allowable Variation
B1: NET-19.2	D	Handbook 133: 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	D	Handbook 133: Create a Chapter 5., Specialized Test Procedures
B1: NET-19.4	D	Handbook 133, Appendix F. Glossary

(B1:NET-3, “Handbook 133, Create a Chapter 5. Specialized Test Procedures” must be adopted in order for the remainder of Item Block 1 to proceed.)

Source:

NIST OWM (2019)

Background/Discussion:

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

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

When the current test procedures in NIST 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 places language in NIST 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 NIST 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.

At the 2019 NCWM Interim Meeting comments were heard recognizing the merit of this item. Several regulators and an industry member made comments that some areas within the procedure are too confusing. Mr. Tim Chesser (Arkansas) remarked that does not understand Item Net 3. Section 5.4.1.1. MAV Application. Mr. Kurt Floren (Los Angeles County, California) submitted editorial changes that the Committee accepted for the entire Item Block 1. In addition, the Committee would like NIST/OWM to address Mr. Floren’s comments for NET- 3. Chapter 5. Specialized Test Procedures will be reviewed by the NIST/OWM. The submitter, NIST OWM was not in attendance due to a government furlough, so concerns could not be addressed. 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.

At the 2019 NCWM Annual Meeting Lisa Warfield (NIST OWM) stressed to membership that this item is fully developed and there is a data and supporting documents that reflect issues that inspectors found pertaining to multi-unit and variety packages during inspections. The white paper also provides additional data as to how and why these proposals were developed. NIST also addressed the WWMA comments in the latest Item under Consideration. There were no additional comments heard at the Annual Meeting.

Regional Association Comments:

WWMA 2018 Annual Meeting: Ms. Lisa Warfield (NIST OWM) provided a description of the block of items. NIST is requesting all four items in Block 1 need to move together as a group. They hope to have the item fully developed by January for voting status at the NCWM 2019 Annual Meeting. Mr. Kurt Floren (Los Angeles County, CA) noted concerns regarding the MAV for multi-unit packaging as proposed. Mr. Floren suggested that the amendment of striking the last phrase does not fully reflect 16 CFR 500.27. FTC regulations state that a multi-unit package with individual packages intended for individual sale should be labeled appropriately. Mr. Floren noted additional clarification is needed in several areas, and although he did not have specifics, offered to assist the developer. He suggested that there may be a way to streamline and clarify the requirements without providing duplicative wording throughout the handbook.

The Committee believes this item has merit to address multi-unit and variety packages and is needed to provide instruction regarding test procedures for these types of products; however, we recommend that the developer explore ways to simplify and address the concerns raised during open hearings and committee discussion. Mr. Floren has offered his assistance to the developer. As such, the committee believes these items should be assigned a Developing Item.

NEWMA 2019 Annual Meeting: At the 2019 NEWMA Annual Meeting, Ms. Lisa Warfield (NIST Technical Advisor) commented that Item NET-10 was inadvertently omitted from the 2018 Fall Regional Agendas and the 2019 Interim Agenda. Ms. Warfield commented that there was a concern from Mr. Chris Guay (Procter and Gamble) regarding the multiunit definition is explained on page 1 of the white paper submitted by NIST. Ms. Warfield requested that any questions, suggestions, or concerns be directed to her. Ms. Warfield would like this to be considered a Voting item at the Fall regional meetings. Based on the testimony of the submitter, all issues have been addressed and the Committee believes the item is fully developed and is ready for Voting status.

SWMA 2018 Annual Meeting: The submitter explained all four proposals and the reasoning behind the submittal.

- Amend the definition for Multiunit package in the UPLR
- Under HB133 Section 1.2.4. Maximum Allowable Variation - add language regarding the declaration on multiunit and variety packages, for when the MAV may need to be recalculated
- HB133 Sections 2.1., Scope 4.1. and Section 2.3.7.1. MAV requirement. Add a note for multiunit and variety
- HB133 Add a Chapter 5.1. Create a Chapter 5 within HB133 to address specialized test procedures. This also adds a specialized test procedure for multiunit and variety packages

Ms. Warfield (NIST OWM) commented that a lengthy supporting document is located on the NCWM Publication 15 web page. Mr. Guay (Procter and Gamble) explained that manufacturers pack to the individual item and do not know how the finalized package will be prepared (multiunit). Mr. Guay would also like the test procedure to reflect several examples to assist manufacturers. There were several comments supporting the addition of a Chapter 5 which would reflect the test procedure in its entirety. Supporters believe this will assist inspectors that do not perform package checking inspections on a routine basis. Tim Chesser (Arkansas) would like to have the title to Chapter 5 modified to accurately reflect the chapter contents. The Committee believes that this item is fully developed and recommends this as a Voting item.

CWMA 2019 Annual Meeting: Lisa Warfield (NIST Technical Advisor) commented that Item Net 10, an addition of some glossary terms - was inadvertently left out of the block. Ms. Warfield commented that during the 2019

Interim Meeting both regulators and industry indicated that there was concern with the item, but there was no specificity. A white paper was submitted to support this item, which appears in the L&R supporting documents. Mr. Chris Guay (Procter and Gamble) has some concern that from a manufacturer's perspective, if multi-unit is redefined it would be problematic and confusing. After review of this item and the appendix documents, the Committee sees no reason to keep it a developing item, as it is fully developed according to the submitter. It should move forward as a Voting item.

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

PAL – UNIFORM PACKAGING AND LABELING REGULATION

PAL-20.1 6.12. Supplementary Quantity Declarations and 6.14. Qualification of Declaration Prohibited.

Source:

The net quantity of contents shall be expressed in terms of weight, measure, count, mass, or size so as to give accurate and sufficient information to facilitate value comparisons by consumers. The prohibited symbols, terms, and words along with words of similar import are not definitive and are deceptive, vague and misleading. The exemptions perceived by the requirement of “tends to exaggerate” whether applied to the unit of measure or quantity hinders the purpose and clear intent of HB 130 6.12 requirements. The word exaggerate could mean an overstatement, understatement of the actual net contents.

A consumer purchasing a commodity with prohibited quantity declarations could not know accurately the quantity being purchased. The usage of “about, minimum, or approximate etc.” can be confusing or mislead the consumer at time of purchase.

For example, a kindergarten school teacher planning a party would like to purchase donuts. The packaged commodity declares about 6 donuts in the principle display panel and there are 18 children in her class. Does she purchase 3 boxes or 4 boxes so every child has a donut?

Similarly, a man traveling received direction from his doctor to take a daily low-dosage aspirin for the next 90-days. The package commodity declares approximately 90 capsules (in the principal display panel) and he wants a 90-day supply. Does he purchase 1 or 2 packages?

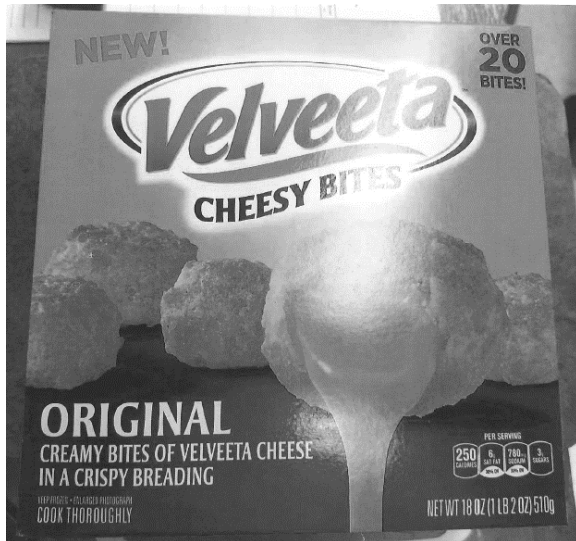
The current language hinders compliance, enforcement and prosecutions with vague language and should be changed and combined with a better phrase like “unit of measurement.” The phrase “nor shall any” preceding the phrase “that tends to exaggerate” is also confusing. More importantly, qualifying terms should not conflict with the accurate calculation of unit pricing comparisons or accurate determination of maximum allowable variance. These are essential points underlying the justification of this proposal to: (a) improve current language (b) provide clear interpretation for practitioners and law enforcement (c) provide language that can be reliable or consistently understood by consumers.

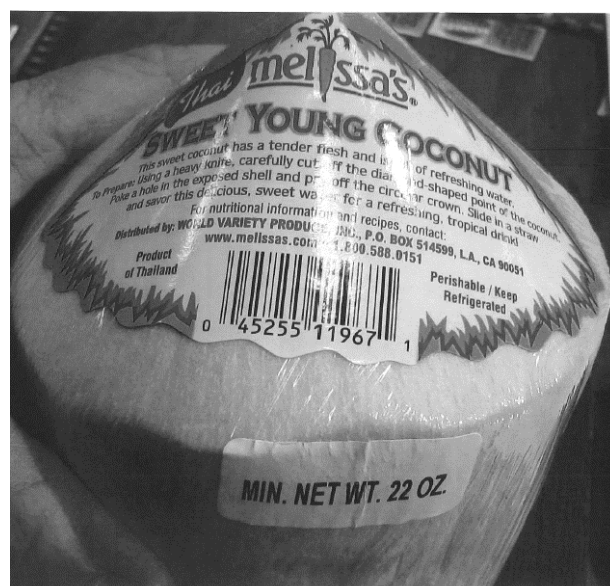
Another significant reason behind this proposal is to reduce the number of court cases resulting from the misinterpretation or creative interpretation of sections 6.14 and 6.12 by litigators. Law enforcement would like to be challenged less, avoid unnecessary court trials, and have clear judicial guidance to support the prosecution of violations. The judicial review is also affected and with improved language it is anticipated that judges will have a better understanding or possess clear guidance needed to support their decision-making process.

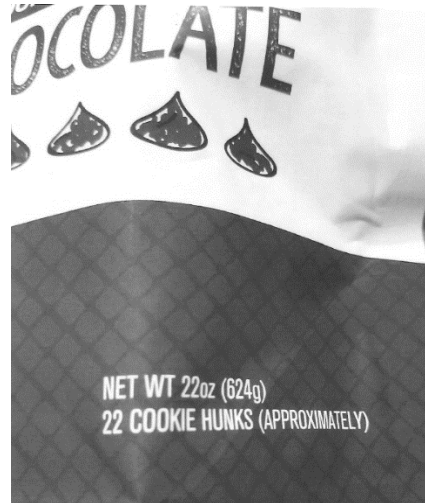
Included in this submission are photos of package commodities that demonstrate improper qualifying terms in the principle display panel in which some were used as litigation exhibits.

Current packaged commodities with inappropriate qualifying terms or declarations will need to be changed for compliance. Implementation period or waiver should be considered by law enforcement during a changeover phase to allow businesses to sell through existing product lines while making the labeling modifications within a defined transitional period.

Examples:







MOS – UNIFORM REGULATION FOR THE METHOD OF SALE OF COMMODITIES

MOS-18.2 A Reorganize the Method of Sale of Commodities and create a section for Fuels, Lubricants and Automotive Products

This item appeared as Item Block 2, B2: MOS-1 in Publication 15 (2018).

For more information or to provide comment, please contact:

Mr. Bill Striejewski, Chairman of the Fuels and Lubricants Subcommittee
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Background/Discussion:

The Method of Sale of Commodities and the Uniform Fuels and Automotive Lubricants Regulations have different information for the method of sale for kerosene, liquefied petroleum gas, natural gas fuels, and diesel exhaust fluid.

1 This proposal is to integrate the information from both regulations to create identical method of sale language in the
2 two regulations.

3 Information for the method of sale for fuels, lubricants and automotive products currently can appear in the handbook
4 in either the Uniform Regulation for the Method of Sale of Commodities and the Uniform Fuels and Automotive
5 Lubricants Regulation. Sometimes the information for the same product is different in the two regulations which
6 creates an added burden when maintaining and updating the handbook. This proposal is to consolidate and reorganize
7 that information into the Uniform regulation for the Method of Sale of Commodities. This proposal is not intended
8 to modify a specific method of sale. Those modifications should be considered separately by product.

9 At the 2018 Interim Meeting, Mr. Chuck Corr (ADM) spoke on behalf of a work group under FALS and provided an
10 overview of the Block 2 agenda items. Mr. Corr stated the intent of this item is to reorganize and harmonize language
11 only, and not to make any substantial changes to the language. Mr. Bill Striejewski, Chairman FALS, commented
12 that FALS discussed these agenda items during their meeting and had concerns about possible conflicts between this
13 item and the NIST Handbook 130 working group (Item FLR-9). Mr. Tim Elliott (WA) commented that all state
14 officials review the proposed language for possible conflicts with state regulations. Mr. Mike Sikula (New York)
15 commented that there is inconsistency between FTC language within 16 CFR 306 and this proposed language related
16 to past editions of the NIST Handbook 130. Mr. Sikula stated that NIST Handbook 130 suggests the most current
17 version of the regulation, and FTC references a specific version. Mr. Sikula believes this inconsistency should be
18 resolved prior to adoption. For these reasons, the L&R Committee decided to Assign this block of items to FALS for
19 further work.

20 At the 2018 NCWM Annual Meeting Mr. Striejewski (FALS Chair) updated the Committee that this item has
21 undergone a major overhaul within the last six months. The submitter is currently contacting each state to see how it
22 impacts the states. It was also noted that if L&R Item FLR-9 was adopted, sections of this item would need to be
23 updated to show the reflect the most recent language as it moves forward.

24 FALS agreed to replace the Method of Sale and Fuels and Lubricants language that was developed at the 2018 Fall
25 Regional Meetings. This developed language appeared in the 2019 NCWM Publication 15.

26 At the 2019 NCWM Interim Meeting comments from regulators and associate members within FALS indicated that
27 they believe FRL-1 is fully developed and ready to be voted on while recognizing that further development is needed
28 regarding MOS-1. After reviewing the comments, the Committee did not assign the same status to both items and
29 they were removed as being a blocked item. FLR-1 is recommended as a Voting item while MOS-1 is assigned back
30 to FALS for additional development.

31 At the 2019 NCWM Annual Meeting Mr. Striejewski (FALS Chair) reports that work on this item continues within
32 FALS. Tim Elliott (WA) remarked that this item does not delete anything but moves things around. Items are being
33 moved from non-food into fuels. A controversial item is a listing of items sold by liquid measure and why they are
34 specified. Mr. Elliott would like feedback from the regions as they review this item. This Item has been assigned to
35 FALS to be further developed to move all Fuels, Lubricants, and Automotive Products from "Section 2. Non-Food
36 Products", to a create a subsection of Section 2 titled "Fuels, Lubricants, and automotive products" and add a reference
37 in the new section for definitions, specifications, and identifications. In addition, a reference will to the Method of
38 Sale Law to individual items missing a method of sale. Due to the number of changes editorial privileges will be
39 required to allow for proper renumbering of regulations within the section. This item will have modifications for the
40 2019 Fall regional agendas.

41 **Regional Association Comments:**

42 WWMA 2018 Annual Meeting: Tim Elliot (Washington) presented updated information on this item that is currently
43 assigned to FALS. Mr. Elliott commented that the language contained on the agenda for the WWMA will have
44 significant revisions due to feedback heard at the NCWM 2018 Annual meeting and the language within the agenda
45 is no longer relevant. FALS expects the updated proposal language prior to the NCWM Interim Meeting. The
46 WWMA recommends this item remain assigned to FALS.

47 NEWMA 2019 Annual Meeting: During the 2019 NEWMA Annual Meeting, Mr. Kevin Adlam (Archer Daniels
48 Midland) made a presentation on behalf of Mr. Chuck Corr to explain the intent of the item and why it was separated

from FLR-1 and remarked that the task group is looking for feedback. Mr. Mike Sikula (New York) asked if any of the information is technical in nature, or if it is simply moving identical language from one section to the other. Ms. Lisa Warfield (NIST Technical Advisor) commented that she is recommending that there should be a way to capture the original date and relocation to new sections within the regulations. This would inform the user when it was originally adopted and then when it was relocated to a new regulation. Mr. Jim McNerny (Connecticut), asked if the section of the Handbook where it will be taken from will clarify it has been moved to a different section. Ms. Warfield commented that she has concern for placing this regulation in only one section since some states do not adopt both the Method of Sale and the Fuels Regulations. Ms. Warfield also commented that Section 3.2. is not necessary and should be stricken. Mr. Sikula suggests that NEWMA question why the Conference is working on this proposal and has concerns we will not have anything significant to show for the work. Mr. Walt Remmert (Pennsylvania) recommends that we continue to work on this item since it is already in development and wants items that appear in two regulations to be identical. The Committee wants to see how the final version of the language will appear in the handbook and encourages the submitter to continue to develop it. NEWMA is recommending this to remain an Assigned Item.

SWMA 2018 Annual Meeting: Mr. Corr (ADM) provided a presentation with an overview of the latest changes to the item under consideration. The Committee encourages the work of the focus group to get this fully developed and would like to have this reviewed at FALS.

CWMA 2019 Annual Meeting: Mr. Corr (ADM) and submitter of the item gave a presentation to explain the purpose of this item and why it was removed from its previous Block with FLR-1. The status of this item is Assigned, and the task group is working to further develop the proposal for the future. Mr. Corr requested that the Committee keeps track of what criteria are used when adding language to Section B. Ms. Lisa Warfield (NIST Technical Advisor) commented that she had suggested changes for the task group for consideration and would forward them to the submitter. The Committee agrees this item should continue with as an Assigned item.

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

MOS-20.3 2.XX. Diesel Fuel

Background/Discussion:

Nearly all of the test above was added to the Uniform Fuels and Automotive Lubricants Regulation section (G) at the 2019 NCWM Annual Meeting without opposition from an amendment submitted by multiple organizations. This proposal adds this section and verbatim text to the Uniform Regulation for the Method of Sale of Commodities. This section is adopted by more states and will improve the uniformity of implementing the important, amended concept. The amendment on “Premium Diesel Fuel” passed without opposition at the 2019 NCWM Annual Meeting.

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <http://www.ncwm.net/meetings/annual/publication-16> to review these documents.

MOS-20.4 2.XX. Ink and Toner Cartridges

Background/Discussion:

The 2019 Handbook 130 Chapter II Uniformity of Law lists 45 out of 53 states or territories as either adopting the Weights and Measures Law on an annual basis or using the NCWM standard used as a basis of adoption, but from an earlier year. Chapter III A. Section 17. Method of Sale states: Except otherwise provided by the Director or by a firmly established trade custom and practice,

- (a) Commodities in liquid form shall be sold by liquid measure or by weight; and
- (b) Commodities not in liquid form shall be sold by weight, by measure, or by count
- (c) The method of sale shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons.

Tennessee receives complaints or concerns each year from consumers who wish to make value comparisons on replacement printer cartridge refills and state they have no way to do this with no declaration being found on packaging. After reviewing multiple packages of ink jet and toner cartridges being offered for sale by multiple manufacturers, the only apparent firmly established trade custom or practice concerning posting of adequate quantity information on packaging that permits the buyer to make price and value comparisons is to post nothing at all.

The conference looked at this issue several years ago and unfortunately came to no decision or conclusion other than to not address the issue and it continues to remain an issue today for consumers and weights and measures officials. Some manufacturers have adopted the “razor / razor blades” model approach to sales subsidizing the initial cost of the printer and making up for it as customers buy high- margin replacement toner and ink again with no quantity declaration on the replacement toner or cartridge packaging to provide adequate price comparisons. In isolated cases it has been found to be cheaper to purchase a new printer with starter ink cartridges and then once the cartridges are emptied buy another new printer with new starter cartridges as opposed to purchasing refill cartridges at high prices and this becomes an ecological problem as well with the discarded printers. One large manufacturer was found to include no quantity information on its ink jet cartridge replacement packaging but their in-store display advertising claims “more pages, more savings” with no other information.

The submitter concedes that determining an exact Page Yield per cartridge may be difficult to determine or verify by the customer or the weights and measures official however a required Average or Minimum Page Yield declaration based on the relevant ISO/IEC test standards printed on the packaging will give the consumer something to base price and quantity comparisons on. If needed to confirm if a particular cartridge or Lot of cartridges meets the ISO/IEC declared page yield the inspectors could institute routine sampling methods from NIST Handbook 133, select the sample for testing and then send the sample to an approved ISO/IEC accredited lab to test for page yield results. This may require the printer manufacturer to provide the needed number of exact printer models required for the specific ISO/IEC method to the accredited lab that will verify. While this process may be difficult at best it beats the alternative which is to look the other way and do nothing leaving the consumer with nothing to base a quantity or price value decision on which is where we stand today. A link to the manufacturers website should be included on packaging to allow the consumer to understand the various environmental factors influence the Average Page Yield such as: Page coverage, Image type, Font used, Print job size, Number of print jobs, Environmental conditions, Paper tray used, Cartridge handling at end of life and others all part of the ISO/IEC test procedures.

One argument may be that it does not fall under weights and measures authority or responsibility to determine “Performance”. Weights and measures will not be determining performance of the printer cartridge. The performance is being determined at the appropriate ISO/IES accredited lab and based on that performance the Average Page Yield or Minimum page Yield per cartridge should then being required by the NCWM Method of Sale to be stated on the packaging so consumers have an idea of what the page yield output they can expect and make a value comparison based on the printer selected.

When fuel is purchased by the gallon weights and measures ensures the gallon is a gallon and meets ASTM specifications. The vehicles that the fuel is then pumped into may vary concerning fuel economy performance (estimated m.p.g.) but the fuel itself has to meet declared minimum requirements that are enforced. Manufacturers may insist there are too many models that have differing page yields to include all on individual packaging. If that is the case then perhaps they can state the absolute lowest or minimum page yield on the packaging to cover all models the cartridge may fit and then elect to provide additional information on the shelf so the consumer can then look up the specific minimum yield for their particular model and a link to the manufacturers website for more detailed information on methods incorporated to determine the minimum yield.

It should be noted that several manufacturers already have web pages that provide detailed explanation of the ISO/IEC method to determine page yield and what can be expected not only for the ink cartridge but also with the printer it is used in. Again, the issue here is average consumer does not have access to this information on the package and most likely will not be aware of this link to the needed information until after the purchase if at all and should not be cost prohibited to manufacturers to include this information on the package label.

Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to <http://www.ncwm.net/meetings/annual/publication-16> to review these documents.

MOS-20.5 2.21. Liquefied Petroleum Gas

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 2.21 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.

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

MOS-20.6 2.37. Pet and Specialty Pet Treats or Chews

Background/Discussion:

Pet treats and chews are considered animal food and are subject to the requirements of most state's commercial feed laws and regulations. As currently published in NIST Handbook 130, the requirements by Model Regulation 2.37 are narrower than those that currently exist under most state's feed regulations. The establishment of differing requirements under a given state's feed authority and weights and measures authority is likely to cause confusion for regulated industry and will not better serve the consumer.

In addition, it is unclear which commodities that the current Model Regulation 2.37 is intended to include. The Association of American Feed Control Officials (AAFCO), an organization similar to yours, has developed definitions and statements of policy for pet, specialty pet, treat, and chew. The addition of these definitions to NIST handbook 130 will help ensure that all regulatory officials have the same understanding of the identity of the commodities being examined. Alternatively, we would accept reference to the AAFCO *Official Publication* to avoid the potential for conflicts should AAFCO update its definitions in the future.

We acknowledge that the flexibility of the language proposed here, derived from 21 CFR 501.105, has the potential for similar products to declare net quantity of contents differently. This flexibility exists for other commodities where a consumer could reasonably compare the value of two products. The proposed requirements submitted here provide more detail than 21 CFR 501.105, and help ensure that the consumer has enough information to fairly evaluate the value of their purchase. For example, pet treats like dog biscuits or dried liver snacks must include net weight because of the variable nature of these fabricated products; that is 1 package of 15 biscuits could be vastly different than another package because the shape and/or size of the biscuits is likely to differ. In contrast, a whole animal part chew, like pig ears, could be fairly evaluated by either weight or count. While all pig ears are not the same size or density,

which could cause accurate labeling by weight to be burdensome, they are reasonably similar so that a consumer could compare the value of two packages of pig ears even if the declaration of net content differed. For animal part chews in processed form, such as elk antlers or rawhide rolls, the length of the chew would likely provide the consumer as much, if not more, information about how to select a product that would be safe and enjoyable for their pet than the weight of the chew. The requirement for size or weight in addition to count would ensure that the consumer could determine the value of their purchase.

The submitter is aware that this matter has been previously presented to NCWM, and there was little discussion or concern with the addition of a requirement for sale of pet treats by weight only. They are also aware that this change was driven by observations of different declarations of net quantity on similar products in the marketplace, which could prevent a consumer from being able to make a fair value comparison. They acknowledge that the observations of variable declarations in the marketplace demonstrate that there is not a firmly established general consumer usage and trade custom. They agree that the declaration of net quantity by weight is required for most pet treat products but concluded that there are instances where the option of labeling the net quantity by count or count and size provides adequate information to the consumer.

The language proposed here is derived from the current requirements under commercial feed regulation to prevent conflicts in labeling requirements of these animal food products. To address concerns about variable labeling declarations, additional information has been proposed to distinguish treats and chews, and guide the requirements for labeling product types to ensure the consumer has sufficient information about the value of the product when making a purchase decision.

During discussions in development of this revised language it was proposed that if an item met the minimum net quantity, it may contain an overage. However, this contradicts with 21 CFR 501.105(q) which requires “an accurate statement of the quantity of contents of the package.” Although the regulation does not define the limits of accuracy, we interpret this to mean that the net weight statement is not intended to simply be a minimum requirement. This would make accurate net weight labeling of many pet chews, which are typically packaged by standard pack, very burdensome.

The Role of AAFCO in Pet Food Regulation

The Association of American Feed Control Officials (AAFCO) has been around since September 1906.

AAFCO’s longstanding purpose has been to serve as a venue for feed regulators to explore the problems encountered in administering feed laws; to develop just and equitable standards, definitions and policies for the enforcement of feed laws; and to promote uniformity in laws, regulations and enforcement policies. AAFCO has created a large number of models providing guidance, definitions, terms and best-management practices in addition to the Model Bill and Model Feed Regulations (including Model Pet Food Regulations).

Membership is limited to employees of state, dominion or other governmental agencies of North America who enforce animal-feed regulations, including those for pet food. The state departments of agriculture and the U.S. Food and Drug Administration (FDA), the Canadian Food Inspection Agency (CFIA), Costa Rica and Puerto Rico are all AAFCO members. Each AAFCO member gets one vote for any particular issue.

Although individual AAFCO members have the authority to regulate animal feed within their jurisdictions, *AAFCO itself has no regulatory authority whatsoever.*

There is a real need for decision makers to have uniform, practical, objective, and competent technical input to create fair and equitable laws and regulations. AAFCO promotes uniform feed laws and regulations.

Typically, AAFCO members meet to establish and refine these models for animal feed and pet food. Then members can share the models with their legislative and rulemaking bodies for incorporation into laws and rules.

Political, financial and cultural differences between governing bodies account for the varying nature and scope of feed and pet food regulatory programs. Notwithstanding the differences between jurisdictions, the majority of states have adopted the AAFCO Model Pet food Regulations in some form. It would be infeasible for a company to distribute pet food in multiple states without meeting the standards in the AAFCO Model Pet food Regulations.

The Relationship Between FDA and AAFCO

The FDA is a voting member of AAFCO and participates in AAFCO meetings, seminars and training sessions to assist state feed regulators and consider shared feed issues.

The FDA plays a vital role in many of AAFCO's standardization activities. For instance, the FDA brings expertise and judgment in establishing the safe and effective use of ingredients defined by AAFCO. Submitted ingredient definitions are not put up for a vote unless the proposed definition meets the standards of the AAFCO ingredient definition process—including an FDA safety review.

The AAFCO Model Bill, which most states have adopted as law, includes adulteration definitions the FDA enforces. (The FDA definition of adulteration applies to food for humans and animals while the AAFCO version applies strictly to animal feed.)

The FDA Animal and Veterinary website refers to many more activities in which the FDA and AAFCO share interests.

Consumer and Industry Involvement

"The most important aspect of feed regulation is to provide protection for the consumer as well as the regulated industry. A major function of feed regulations is to safeguard the health of man and animals. Another important function of feed regulation is to provide a structure for orderly commerce."
- Association of American Feed Control Officials (AAFCO) Official Publication

Anyone can register for and attend an AAFCO midyear or annual meeting.

Interested parties representing wider organizations can apply to be selected as non-voting AAFCO committee advisors. Non-voting committee advisors identify issues and interests potentially affected by regulations based on the AAFCO Models.

Please see www.aafco.org for more information.

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

ITEM BLOCK 2 (B2) TRACTOR HYDRAULIC FLUID

B2: MOS-20.1	2.XX. Tractor Hydraulic Fluid
B2: FLR-20.1	1.XX. Tractor Hydraulic Fluid

Background/Discussion:

ASTM has announced an effort to develop a national specification for tractor hydraulic fluids. The adopted Handbook 130 amendments (July 2019) do not provide for such specification. The requirement that a cautionary statement be "clearly legible" is too subjective. The consumer needs to be drawn to the cautionary statement. There are multiple uses of hydraulic fluids not intended for tractor sumps. These alternative uses, especially in ag community need to be addressed.

The submitter acknowledges the ASTM effort is just starting and may not be successful. Invoice printers may not have enough room for cautionary statement.

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

ITEM BLOCK 3 (B3) ENGINE FUELS & AUTOMOTIVE LUBRICANTS INSPECTION LAW, SECTION 8. PROHIBITED ACTS. METHOD OF SALE, SECTION 2.33 OIL. FUELS & AUTOMOTIVE REGS. SECTIONS 2.14. ENGINE (MOTOR OIL), 3.13. OIL, AND 7.2. REPRODUCIBILITY LIMITS

B3: FLL-18.1 A Section 8. Prohibited Acts

B3: MOS-18.1 A Section 2.33. Oil

B3: FLR-18.1 A Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.

For more information or to provide comment, please contact:

Mr. Bill Striejewski, Chairman of the Fuels and Lubricants Subcommittee
Nevada Department of Agriculture/Bureau of Petroleum Technology
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Background/Discussion:

Consumers are being misled and are not being adequately informed under existing Handbook 130 provisions about the performance of “obsolete” oils in the engines of their vehicles. Many of these obsolete oils can damage modern engines. The submitter recognizes that there may be as many as 14 million vehicles that can use pre-1988 motor oils.

At the 2018 NCWM Interim Meeting, Mr. Bill Striejewski (FALS Chairman), indicated that FALS is recommending this as a Voting item. In addition, support was heard from ILMA, API, and several regulators recommending this item as a Voting item. However, many commenters stated that editorial and minor changes were still needed for the item to be fully developed. Tim Elliot (Washington) recommended that this item have streamlined language to use a generic warning statement. Suggestions were also provided on the ultimate placement of the label. Due to lack of consensus, potentially non-editorial changes, and lack of specific details on proposed changes, the L&R Committee recommends this item be “Assigned” to FALS for further development to address the issues mentioned in this write-up.

At the 2018 NCWM Annual, Mr. Striejewski remarked that FALS received modified language from the submitter and FALS is recommending this item remain Assigned with the updated.

At the 2019 NCWM Interim Meeting comments were heard from members of FALS stating that the level of discussion desired was not had regarding this item due to the absence of the submitter at the FALS meeting that was held Sunday, January 13, 2019. There were several comments regarding the term “modern” not being defined in the cautionary statements. Several stakeholders and regulators feel these items need further review and clarification. A Kansas regulator stated that the caution statement is incorrect and should be modified because it is oil being sold, not an engine. After consideration the committee recommends this item remain Assigned to FALS.

At the 2019 NCWM Annual Meeting Mr. Striejewski (FALS Chair) commented that the submitter has a revision (May 10, 2019) under the L&R supporting documents. This is the language that the Committee has moved forward for consideration.

Regional Association Comments:

WWMA 2018 Annual Meeting: The Committee received several comments expressing concerns regarding this proposal. The Committee believes these are valid concerns that should be reviewed and addressed by the submitter.

The Committee believes these issues are best addressed by the submitter and is recommending this as a Developing Item.

- Mahesh Albuquerque (Colorado) expressed concerns about the lack of complaints in the market, which generally drives updates to the handbook. He also indicated the proposed modifications related to “performance claims” and cautionary requirements that are difficult to defend in court. He also stated section 2.12 references active performance categories, which is not clearly defined. Lastly, he questioned the how a regulator would know what would be considered a modern diesel/gasoline engine.
- Kevin Ferrick (API) is supportive of the language, with the exception of one typo (an unnecessary semi-colon in 2.33.1.5).
- Kurt Floren (Los Angeles County, California) agreed with the comments expressed by Mr. Albuquerque. Additionally, Mr. Floren requested clarification on FLL1 8.6 regarding the strikeout of the word “specified.”
- Mr. Elliott (Washington) also agreed with Mr. Albuquerque and Mr. Floren. He expressed that cautionary statements should be more generic and less specific to accommodate future circumstances and they should also be easy for the consumer to understand. Mr. Elliott also stated that the language stating “SAE believes” shown in the cautionary statements is not appropriate and should be rephrased. The Committee recommends language such as “In accordance with SAE J183, this product does not meet”
- Additionally, Mr. Floren recommended, and the committee agrees, with changes to the language in FLR 5, Section 2.12 as shown below with double underline and double strikethrough:

2.12. Engine (Motor) Oil. – Shall not be sold or distributed for use unless the product conforms to the following specifications:

- (a) performance claims made ~~against~~ regarding active performance categories, as listed on the label shall be evaluated against the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification,” API 1509 “Engine Oil Licensing and Certification System,” European Automobile Manufacturers’ Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine Manufacturer Standards” as applicable;
- (b) performance claims made ~~against~~ regarding any obsolete performance categories, as listed on the label, shall be determined to meet the requirements of Section 3.13.1.3.2. “Inactive or Obsolete Service Categories” by displaying the appropriate cautionary labeling and
- (c) the product shall meet its labeled viscosity grade specification as specified in the latest version of SAE J300, “Engine Oil Viscosity Classification.”

NEWMA 2019 Annual Meeting: During the 2019 NEWMA Annual Meeting, Lisa Warfield (NIST Technical Advisor) commented that she worked with the submitter to obtain the most current language for the 2019 Spring regional Meetings and the 2019 NCWM Annual Report. The current language differs from the language that appeared in the 2019 NCWM Publication 15. Mr. Mike Sikula (New York) opposed this item because weights and measures are to be the neutral party, and this item is too one-sided in favor of the manufacturers. He believes this item shows bias and should be reworded to address that issue.

Mr. John McGuire (New Jersey) is unsure of B3: FLL-1, Section 8.6. Prohibited Acts and wishes to understand why the term “specified” is being stricken.” Even with the word “specified” stricken in the sentence, the entire Section 8.6 is not clear to its intent. Based on the comments received and the need for clarification of terms, the Committee believes the item should remain in Assigned status to allow the submitter ample time to address New Jerseys concerns.

SWMA 2018 Annual Meeting: The Committee heard from Lisa Warfield (NIST OWM) that this language was modified by the submitter at the 2018 NCWM Annual Meeting. The Committee believes this item is fully developed and should be elevated to Voting status.

CWMA 2019 Annual Meeting: Ms. Lisa Warfield (NIST Technical Advisor) commented that the language that appears in this CWMA agenda is different from what was in Publication 15 for the 2019 Interim Meeting. After searching online and in the Appendix CWMA was unable to identify the changes between the 2019 Interim version and the current version. The Committee believes this item should continue with Assigned status.

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

ITEM BLOCK 4 (B4) E15 WAIVER: PRODUCT TRANSFER DOCUMENT REQUIREMENTS

B4: MOS-20.2 2.20.2. Documentation for Dispenser Labeling Purposes
B4: FLR-20.3 3.2.5. Documentation for Dispenser Labeling Purposes.

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.

Amend MOS paragraph 2.20.2.(a)(1) and (2) (there is a “mirrored change” intended for FLR 3.2.5.) to address the regulatory changes finalized by the U.S. EPA that revise product transfer document (PTD) requirements for disclosure of the percent concentration of ethanol in gasoline-ethanol blends, as revised in 40 CFR 80.1503.

Amend MOS paragraph 2.20.2(a)(3) (there is a “mirrored change” intended for FLR 3.2.5.). This revision is necessary to the reflect the regulatory requirements within 80.28(g)(8) which are newly applicable to E15 since it has been granted the 1.0 psi waiver. The proposed amendment is needed to address the fact that ethanol flex fuel (EFF), which may be used to produce gasoline-oxygenate blends, can have a significant difference in ethanol content depending on season and geography. EFF can range from 51 to 83 volume percent ethanol. A retail gasoline location receiving EFF that will be used for the purpose of producing gasoline-oxygenate blends needs the correct ethanol content information of the EFF. This information is needed in order to adjust the blend ratio to ensure that the fuel is properly blended to meet the requirements that E15 contain at least 10 and not more than 15 volume percent ethanol per 40 CFR 80.1504(e)(3) and to demonstrate the certification requirements within 40 CFR 80.28(g)(8). Accurate blending of E15 from EFF ensures appropriate dispenser labeling which facilitates customer value comparison and provides consumer misfueling protection. The following bullets from the November 2017 presentation by the Wisconsin Department of Agriculture Trade and Consumer Protection provide additional explanation for why this information is needed.

Selling E15 (slide 24 and 25, https://www.wpmca.org/assets/ethanol/E15_What_Retailers_Need_to_Know.pdf)

- Blending at the pump can be done using E85 or other high blend ethanol product
- E85, or flex fuel, is a term that refers to high-level ethanol-gasoline blends containing 51%-83% ethanol, depending on geography and season
- Because of the range in possible ethanol content of E85, retailers must ensure the blend ratio on all dispensers are set to properly blend for E15 at all times
- There are two ways to ensure proper blend ratio:
 - Program the dispensers for the maximum ethanol content of the E85/Flex Fuel
 - Have a service company adjust the blend ratios every time the ethanol content in the E85/Flex Fuel changes
 - This requires regular monitoring of the ethanol content of the E85/Flex Fuel you are receiving and prompt action when the ethanol content changes
 - If a consumer experiences vehicle damage as a result of fuel being dispensed at a higher ethanol content than what is posted on the dispenser, the retailer is responsible.

Some may argue that the proposed changes are not “new” requirements. However, as demonstrated above these changes are necessary to address the U.S. EPA’s new approach to granting the 1-psi RVP waiver for E15 in the summertime.

EPA Final rule, “Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations” June 10, 2019, <https://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.
<https://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:

- **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)

• **40 CFR 80.1503** *What are the product transfer document requirements for gasoline-ethanol blends, gasolines, and conventional blendstocks for oxygenate blending subject to this subpart?*

(a) Product transfer documentation for conventional blendstock for oxygenate blending, or gasoline transferred upstream of an ethanol blending facility.

(1) In addition to any other product transfer document requirements under 40 CFR part 80, on each occasion after October 31, 2011, when any person transfers custody or title to any conventional blendstock for oxygenate blending which could become conventional gasoline solely upon the addition of ethanol, or gasoline upstream of an oxygenate blending facility, as defined in § 80.2(ll), the transferor shall provide to the transferee product transfer documents which include the following information:

(i) The name and address of the transferor;

(ii) The name and address of the transferee;

(iii) The volume of conventional blendstock for oxygenate blending or gasoline being transferred;

(iv) The location of the conventional blendstock for oxygenate blending or gasoline at the time of the transfer;

(v) The date of the transfer;

(vi) For gasoline during the regulatory control periods defined in § 80.27(a)(2)(ii) or any SIP approved or promulgated under §§ 110 or 172 of the Clean Air Act:

(A) The maximum RVP, as determined by a method permitted under § 80.46(c), stated in the following format: "The RVP of this gasoline does not exceed [fill in appropriate value]"; and

(B) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3).

(2) The requirements in paragraph (a)(1) of this section do not apply to reformulated gasoline blendstock for oxygenate blending, as defined in § 80.2(kk), which is subject to the product transfer document requirements of §§ 80.69 and 80.77.

(3) Except for transfers to truck carriers, retailers, or wholesale purchaser-consumers, product codes may be used to convey the information required under paragraph (a)(1) of this section if such codes are clearly understood by each transferee.

(b) Product transfer documentation for gasoline transferred downstream of an oxygenate blending facility.

(1) In addition to any other product transfer document requirements under 40 CFR part 80, on each occasion after October 31, 2011, when any person transfers custody or title to any gasoline-ethanol blend downstream of an oxygenate blending facility, as defined in § 80.2(ll), except for transfers to the ultimate consumer, the transferor shall provide to the transferee product transfer documents which include the following information:

(i) The name and address of the transferor;

(ii) The name and address of the transferee;

- (iii) The volume of gasoline being transferred;
(iv) The location of the gasoline at the time of the transfer;
(v) The date of the transfer; and
(vi) One of the statements detailed in paragraph (b)(1)(vi)(A) though (E) which accurately describes the gasoline-ethanol blend. The information regarding the ethanol content of the fuel is required year-round. The information regarding the RVP of the fuel is only required for gasoline during the regulatory control periods.

(A) For gasoline containing no ethanol (E0), the following statement; “E0: Contains no ethanol. The RVP does not exceed [fill in appropriate value] psi.”

(B)(1) For gasoline containing less than 9 volume percent ethanol, the following statement: “EX - Contains up to X% ethanol. The RVP does not exceed [fill in appropriate value] psi.” The term X refers to the maximum volume percent ethanol present in the gasoline.

(2) The conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol as described in § 80.27(d)(3) may be used in lieu of the statement required under paragraph (b)(1)(vi)(B)(1) of this section.

(2) Except for transfers to truck carriers, retailers, or wholesale purchaser-consumers, product codes may be used to convey the information required under paragraph (b)(1) of this section if such codes are clearly understood by each transferee.

(c) The records required by this section must be kept by the transferor and transferee for five (5) years from the date they were created or received by each party in the distribution system.

(d) On request by EPA, the records required by this section must be made available to the Administrator or the Administrator's authorized representative. For records that are electronically generated or maintained, the equipment or software necessary to read the records shall be made available, or, if requested by EPA, electronic records shall be converted to paper documents.

[76 FR 44443, July 25, 2011, as amended at 79 FR 42167, July 18, 2014; 84 FR 27025, June 10, 2019]

(emphasis added)

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

FLR – UNIFORM FUELS AND AUTOMOTIVE LUBRICANTS REGULATION

FLR-20.2 1.23. Ethanol Flex Fuel. and 2.1.1. Gasoline and Gasoline-Oxygenate Blends

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 2.1.2. and 1.23. are modified to address these issues.

Amend FLR paragraph 1.23. to reflect the modification are needed to address the fact that ethanol flex fuel intended for blending with gasoline and gasoline ethanol blends must contain certified components or each storage tank must be certified before it can be sold as a blendstock for E15. For example, blending of ethanol flex fuel containing natural gas liquids is prohibited unless certified consistent with 40 CFR 80.28(g)(8) requirements.

2.

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.

Amendments to FLR paragraph 2.1.2.(b) address the new U.S. EPA approach for E15. For parties in the fuel distribution system, U.S. EPA has reinterpreted the 1-psi allowance for RVP maximum limits in the gasoline distribution system for up to 15% ethanol blends. Parties in the fuel distribution system utilize the “deemed to comply” provision in the U.S. EPA regulations to certify that the fuel sold complies with federal regulations. The Clean Air Act Section 211(h) extends that allowance **only** if parties in the distribution system are deemed to comply, that is, they have evidence that: (1) the hydrocarbon portion meets the RVP limits, (2) the ethanol portion meets its waiver condition and (3) no additional alcohol or other additive has been added to increase the RVP of the ethanol portion of the blend. Specifically, the proposed changes to HB 130 reflect the U.S. EPA language that requires parties in the distribution system seeking to utilize the “deemed to comply” provision to qualify for the 1-psi waiver for ethanol blends from 9 to 15 volume percent, must demonstrate that the gasoline-ethanol blend or hydrocarbon portion of an ethanol flex fuel blend meets RVP requirements per 40 CFR 80.28. Without this language in HB 130, inspectors will not have the full information needed to regulate the fuel and they may not recognize that E15 produced at the pump by blending ethanol flex fuel made with natural gas liquids (NGL) with gasoline-ethanol blends may not qualify for the 1-psi waiver and will likely violate state and federal vapor pressure requirements. Specifically, the EPA final rule indicates that, “..., in order for these fuels to be introduced into commerce, they must be substantially similar to certification fuel or obtain a waiver from the substantially similar requirement.” Further, information that describes the challenges of using NGLs is provided in the list of attachments, Section 20. below).

Some may argue that the proposed changes are not “new” requirements. However, as demonstrated above, the proposed changes to HB 130 are necessary to address the U.S. EPA’s new approach to granting the 1-psi RVP waiver for E15 in the summertime (e.g., 40CFR80.28(g)(8) and (g)(8)(ii) now cover E15 where it previously addressed E10). The EPA has also indicated that the change in rules will result in more manufacturing of E15 at the retail pump and that there will be increased availability and use of the fuel. Consequently, it is appropriate for NCWM to make changes that comprehensively reflect the requirements associated with the manufacturing of E15.

EPA Final rule, “Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations” June 10, 2019, <https://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.
<https://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)

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

POL – NCWM POLICY, INTERPRETATIONS AND GUIDELINES

POL-18.1 D Section 2.6.XX. Methods of Sale for Packages of Consumer Commodities – Federal Trade Commission and Acceptable Common or Usual Declarations for Packages of Food – Food and Drug Administration.

Background/Discussion:

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

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

This proposal is to provide NIST Handbook 130 users with easy access to tables to identify the method of sales prescribed by the Federal Trade Commission (FTC) for products subject to that agency's regulation and the acceptable common or usual declarations permitted to appear on packages of food by the Food and Drug Administration (FDA). Much of this information has been published by FDA and FTC in out of print publications and by NIST (previously known as NBS) in its training materials since the 1970s. The information is used by the Office of Weights and Measures in both training and daily to respond to inquiries from both weights and measures officials and industry about how products are to be sold and labeled. The tables have been revised to add current FTC labeling requirements which include requirements for metric units and additional common and usual declarations for commodities that FDA has issued in recent years in response to specific inquiries from OWM that submitted to FDA to assist packers and weights and measures officials. The FDA information is based on Guide 7699.2 in the Food and Drug Administrations "Fair Packaging and Labeling Manual" (June 1978) and other FDA guidance.

This information is useful to both packers and inspectors when determining how packages should be labeled and offered for sale. It has been available for many years in out of print publications and should be made widely available through this handbook.

NIST/OWM is also requesting editorial privileges to add items as they receive confirmation from FDA as to what the acceptable common or usual declaration for a product is. NIST/OWM will then automatically update the handbook (chart) and list all changes to the Amendment chart located in the front NIST HB130.

At the 2018 NCWM Interim Meeting written comment was received from Ms. Ann Boeckman (Kraft Heinz) recommending this be a Developing item. Ms. Boeckman wants the listing to be reviewed to ensure it is consistent with current established practices and legal standards. In addition, she requests a review of the listing for consistency, clarity and appropriate use of factual product descriptors. Chris Guay (P&G) questioned why particular products were chosen in Table A and stated it would be helpful if there was an additional column in Table B, Section 2.6.XX. containing notes. Mr. Kurt Floren (Los Angeles County, California) commented that there are products listed that conflict with HB130, Method of Sale and Labeling Requirements as well as routine practices in the marketplace. (Examples include citrus, cabbage, fresh asparagus, and berries). Berries specify no marking or dry measure while Section 1.1.2. Methods of Sale specify either weight or volume. Due to the discrepancies pointed out in the comments received, the L&R Committee recommends this be a Developing item.

At the 2018 NCWM Annual Meeting, Ms. Boeckman (Kraft Heinz) supports the work. This is based on guidance from the 1970's and it is important to have a process to maintain the information. Mr. Guay supports the development of this as a reference document. Mr. Floren concurs with the develops of this item but remarked that if updating it, there should not be conflict with existing regulations. An example of this would be the proposal has berries as having no marking or dry measure but the NIST Handbook 130 method of sale is weight or volume for this product.

At the 2019 NCWM Interim Meeting Mr. Floren (Los Angeles, California) and Mr. Guay (P&G) commented that they want to ensure that the table is accurate. One example Mr. Floren pointed out is citrus fruit does not align with the NIST Handbook 130 Method of Sale. Regulators, industry members, and the regional opinions all recommend

this item remain developing. The submitter, NIST OWM was not in attendance due to a government furlough, so concerns could not be addressed. The Committee recommends this item remain Developing.

At the 2019 NCWM Annual Meeting Ms. Warfield (NIST OWM) remarked that a revision that clarifies any issues that have been presented at the Spring regions and conference will appear in the 2019 Fall reports.

Regional Association Comments:

WWMA 2018 Annual Meeting: Ms. Lisa Warfield (NIST OWM) commented that there are documented conflicts with this proposal that have not yet been addressed. She recommends the item remain developing. She is working with Heinz-Kraft and hopes to have clarified the proposal by January 2019 NCWM Interim meeting. There were no other comments regarding the item. The Committee recommends this as a Developing Item.

NEWMA 2019 Annual Meeting: During the 2019 NEWMA Annual Meeting Lisa Warfield (NIST Technical Advisor) commented that the language in this item is directly from the Fair Packaging and Labeling (FPLA) Manual. She also commented that citrus was previously removed in an earlier edition from NIST Handbook 130, Interpretations and Guidelines, so there are no conflicts between the NIST Handbook 130 language and the FPLA. The Committee recommends the item is fully developed and should be moved forward as a Voting item

SWMA 2018 Annual Meeting: The submitter, Lisa Warfield (NIST OWM) remarked that she is currently working on this item and hopes to have modified language submitted by the 2019 NCWM Interim Meeting.

CWMA 2019 Annual Meeting: Lisa Warfield (NIST Technical Advisor) commented that she has taken information from the FPLA, FTC, and FDA and compiled it. She reminded the Committee that this is not a regulation. Ms. Warfield submitted a revision to the CWMA for consideration. Upon review the Committee believes this item to be 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.net/meetings/interim/publication-15> to review these documents.

NET – HANDBOOK 133

NET-16.1 D Recognize the Use of Digital Density Meters

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

Mr. Ronald Hayes
Missouri Department of Agriculture
(573) 751-4316, ron.hayes@mda.mo.gov

Background/Discussion:

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.

Digital density meters are fast and accurate in comparison with recognized Handbook 133 test procedures for viscous fluids. Using digital density meters equipped with built-in API density tables will not require the cooling samples to 60 °F. There is no need to “wet down” volumetric flasks before each measurement. Most non-food products may be recovered without contamination. Only a small sample size (2 ml) of the product is needed for testing. There is no need for a partial immersion thermometer or volumetric flasks. The 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. This new test procedure would eliminate the entrapment of air in testing viscous fluids (i.e. motor oil, DEF, antifreeze, syrups, etc.) Well established ASTM and other international standard test methods are available with precision statements.

SWMA L&R 2019 Annual Meeting Report
Appendix A

At the 2016 NCWM Interim Meeting, Mr. Ron Hayes (Missouri) spoke in regard to his submittal of this proposal. The Committee believes this item has merit and requested that the submitter form a focus group to further develop. Mr. Hayes agreed that this item needs have additional data gathered to support the use and accuracy of the digital density meters. The American Petroleum Institute (API) remarked that they would like to assist the task group on this project. The Committee is making this a Developing Item.

At the 2017 NCWM Interim Meeting the submitter Mr. Hayes asked for the states to participate in a round robin to compare the current handbook test procedures with the density meter. The Committee encouraged the submitter to develop a proposal by Fall 2017.

At the 2018 NCWM Interim Meeting, Mr. Ron Hayes (Missouri) gave a presentation regarding this item. Mr. Lou Sakin (Massachusetts) recommended this item be assigned with a specific timetable for development. No other comments were heard on this developing item. The L&R Committee recommends this item as Developing to allow the submitter to finish developing test procedures and review with NIST/OWM staff.

At the 2018 NCWM Annual Meeting, Mr. Hayes (Missouri) provided an update that he has been doing testing and getting repeatability with his results. Mr. Hayes remarked that when NIST OWM was teaching a NIST Handbook 133- Basic course in Missouri he had an opportunity to use the density meter on some of the test procedures.

At the 2019 NCWM Interim Meeting the submitter of this item stated he is close to having an updated proposal posted to the NCWM website. A Michigan regulator stated his desire to see this item remain developing. The Committee recommends this item remain Developing with the stipulation, that if new language is not provided by the 2019 NCWM Annual Meeting, the item will be withdrawn.

At the 2019 NCWM Annual Meeting Mr. Ron Hayes commented that he has a draft of his proposal on the NCWM L&R supporting document website. Mr. Hayes continues to work with states who use the density meters to develop an item under consideration. He also continues to work on the alpha correction.

Regional Association Comments:

WWMA 2018 Annual Meeting: Ms. Lisa Warfield (NIST OWM) commented that NIST has evidence presented in a paper from 2006 which demonstrates that this equipment does not work in all applications and recommends this be Developing. This paper is on the NCWM website. The Committee recommends this item remain as a Developing Item; however, if a proposal is not submitted by the 2019 Interim Meeting, we recommend the item be Withdrawn.

NEWMA 2019 Annual Meeting: Ms. Lisa Warfield (NIST Technical Advisor) commented that the developer has submitted a draft proposal and supporting data and is asking for feedback from members. The Committee will consider the details of the proposal at a future NEWMA meeting and it should remain a Developing Item.

SWMA 2018 Annual Meeting: Ms. Lisa Warfield (NIST OWM) commented they have tested various products with the digital density meters (soda, viscous products) and there are some issues with testing. A NIST document is available under the NCWM L&R supporting documents that is a comparison document that NIST developed using the density meters in package testing. The density meter works well products that are non-viscous and non-carbonated but does do well with other products. Craig VanBuren (Michigan) remarked that a description of products needs to be developed as to what works with the density meter. The Committee notes in the Appendix A. that the developer has been given prior deadlines to submit an item. At this time no proposal has been submitted and the Committee is recommending the item be Withdrawn.

CWMA 2019 Annual Meeting: Mr. Ron Hayes, Missouri and submitter of the item presented a draft of the new test procedure for viscous and non-viscous liquids by portable digital density meter. Mr. Hayes hopes to get feedback on this draft to further discuss during the fall regional meetings. Ms. Lisa Warfield (NIST Technical Advisor) asked if Mr. Hayes used a specific digital density meter or if he used different ones. He responded that he used a single meter. Also, is the alpha value table inclusive, or is the intent to add items? Mr. Hayes responded that he wants to add to the alpha value table and cite the reference. Mr. Warfield asked that some products that are very viscous might be problematic. Mr. Chris Guay (Procter and Gamble) commented that he believes there are certain product categories with a lot of variations - shampoo for instance. He believes may be difficult to determine what products you can and

cannot use the digital density meter to measure. He further stated that it CANNOT be used for conditioner. Mr. Hayes believes he is nearing completion of building the specification but wants to continue to develop the alpha value table and hopes to have the item ready to consider for Voting. The Committee supports Mr. Hayes efforts.

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

NET-20.1 Section: 3.4.2.b. Test Procedure for Testing Mayonnaise, Salad Dressing, and Water Immiscible Products with no Smooth and Level Surface.

Background/Discussion:

This procedure is used and followed to determine the “net content” of a package by calculating the difference between two volumetric measurements, the volume of the headspace in the package and the volume of the empty container. Correcting for the volume of the liquid contained in the hole in the disk used in the procedure is an unnecessary added step in determining the net contents of the package.

When the steps for subtracting 1 ml (0.03 fl oz) from the volume measurement for the volume of the liquid contained in the hole in the disk are omitted from step 4. and step 6. of the existing procedure, the calculation yields the same mathematical result and therefore the same net content and package error result as when the steps of correcting the measurement for the volume of the liquid contained in the hole in the disk are included.

The additional steps in the existing procedure are not needed for a package net content/package error determination and they increase the probability of an unnecessary simple math error invalidating the net content result.

The proposed note added after step 7. acknowledges that the volume measurements in step 4. and step 6. include the additional 1 ml (0.03 fl oz) of liquid contained in the hole in the disk and provides the method to calculate the corrected headspace volume and corrected maximum container volume by subtracting the 1 ml (0.03 fl oz) volume of liquid contained in the hole in the disk if those volumes need to be reported. I don't see the need for reporting those volumes if all parties involved follow the same procedure. I have included a copy of an existing category “A” Headspace worksheet with this submission that David Sefcik was kind enough to provide to me and an edited version that conforms more with my proposal.

The corrected headspace volume and corrected maximum container volume have no impact on the package net content calculation and should be calculated and recorded separately from the net content result when needed for reporting purposes to reduce the possibility of incorrectly determining package compliance. This is a procedure for determining the net content of packages, not for determining the maximum container volume or the volume of the filled package headspace.

Example of existing procedure calculations and proposed procedure calculations.

Existing Procedure HB 133 3.4.2.b.

Step 4 example

Volumetric measurement	3.0 fl oz
Measurement after subtracting 0.03 fl oz.	2.97 fl oz

Step 6 example

Volumetric measurement	10 fl oz
Measurement after subtracting 0.03 fl oz.	9.97 fl oz

Step 7 example

Measured package volume	7.0 fl oz
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Proposed Procedure HB 133 3.4.2.b.

Step 4 new	Volumetric measurement	3.0 fl oz
Step 6 new	Volumetric measurement	10 fl oz
Step 7 (same result)	Measured Package volume	7.0 fl oz

The submitter acknowledged an opposing argument could be that we must determine and report the corrected headspace and the corrected maximum container volume by subtracting the volume of the liquid contained in the hole in the disk used in the procedure for each measurement rather than reporting the package net quantity/package error only.

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

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

Background/Discussion:

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”.

OTH – OTHER ITEMS

OTH-07.1 D Fuels and Lubricants Subcommittee

This item is to provide a report on the activities of the Fuels and Lubricants Subcommittee which reports and provides recommendations to the Laws and Regulations Committee. For more information or to provide comment, please contact:

Mr. Bill Striejewski, Chairman of the Fuels and Lubricants Subcommittee
Nevada Department of Agriculture/Bureau of Petroleum Technology
(775) 353-3792, wstrijewski@agri.state.nv.us

Background/Discussion:

FALS met on Sunday, July 14, 2019, at the NCWM Annual Meeting in Milwaukee, Wisconsin to review the agenda items related to fuel and automotive fluid standards before the L&R Committee. There was discussion of the Priority Voting item MOS-1, FLR-1, FLR-7, and Item Block 4 on the L&R agenda. The meeting included a brief review and comments regarding a discussion held during Saturday’s board meeting about FALS, its mission, and its future. There was also information given about useful materials that are being produced by AOCA. At present, there are no Focus Groups within FALS. The following is a brief summary of these items mentioned above.

Board of Directors Discussion on FALS – Rebecca Richardson (FALS and NCWM Board of Directors) presented highlights of a discussion from the Board of Directors meeting as to how to make FALS function more efficiently and effectively. There was brief, but valuable discussion that centered on a few points: that a strength of FALS in its current configuration is the level of engagement and openness; that whatever changes the subcommittee might make, its primary function is to assist L&R in their work; and that the group could use more

structure. Mr. Striejewski will be soliciting further comments from FALS membership moving forward to continue this discussion as necessary.

Automotive Oil Change Association Update – During the new business section of the FALS meeting, Ms. Joanna Johnson (AOCA) commented that has created training materials for engine oil and transmission fluid, and she has the preproduction content with her at this meeting. If anyone wants to provide input, they should see or contact her. The association will make it available to the regulatory communities once it is produced.

EPA Final Rule – At the 2019 NCWM Annual Meeting the L&R Committee tasked the FALS to review regulations under **40 CFR 80.20** to ensure there are no conflicts within NIST Handbook 130 – Fuels and Lubricants Regulations.

Regional Association Comments:

WWMA 2018 Annual Meeting: The committee appreciates the efforts of FALS and recommends this item remain as a Developing Item.

CWMA 2019 Annual Meeting: No comments were heard.

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

OTH-11.1 D Packaging and Labeling Subcommittee

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:

Mr. Chris Guay, Chairman of the Packaging and Labeling Subcommittee
Procter and Gamble Co.
(513) 983-0530, guay.cb@pg.com

Background/Discussion:

The Package and Labeling Subcommittee (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 Chairman and NIST Technical Advisor. Mr. Guay, (PALS Chair) reported that work is currently being progressed through monthly webinar meetings and at the NCWM meetings. Members of NCWM can participate in the PALS meetings by contacting Mr. Guay. PALS members are responsible for providing updates at their Regional Meetings. Mr. Guay added PALS will be developing proposals and 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.

Mr. Guay reported that PALS is working on a “Recommended Best Practice” document for quantity expressions appearing on the principal display panel (PDP) in addition to the required statement of net quantity has begun development of proposed requirements for packages/products sold exclusively through e-commerce sites, and has and will be submitting comments on behalf of the NCWM to the Federal Register proposals that are related to quantity declarations by federal agencies. In addition, PALS is considering further development of the following items:

- **Additional Net Content Declarations on the Principal Display Panel to Meet U.S. and International Requirements** - Package net contents are most commonly determined by the product form, for example – solid products are labeled by weight and liquid products are labeled by volume. Semi-solid products such as pastes, creams and viscous liquids are required to be labeled by weight in the United States and by volume in Canada.
- **Icons in Lieu of Words in Packaged labeled by Count** – Can a clear and non-misleading icon take the place of the word “count” or “item name” in a net content statement? While existing Federal regulation

requires regulatory label information to be in “English,” the increasing presence of multilingual labels and the growing diversity of the U.S. population suggest more consumers are served with a clear and non-misleading icon.

- **Multipacks and Bundle Packages** - The net content statements for multipacks and bundled packages of individually labeled products can be different based on the approach used to calculate them. The difference is the result of the degree of rounding for dual U.S. customary units and metric declarations. Using two apparently valid but different methods can yield two different results; one net content statement result that provides closer accuracy between the declared metric and U.S. customary declaration, or a different net content result which is more intuitive but less accurate.

At the 2018 Interim Meeting, Mr. Guay reported that the PALS was making good progress on a “Recommended Best Practice” document for quality related statements appearing on the package net contents statement outside of the required statement of net quantity. A completed first draft is expected in late 2018. A “Recommended Best Practice” document is expected to bring uniformity and consistency by providing a reference for these types of label expressions. This document will either be a stand-alone document on the NCWM website or an NCWM publication.

At the 2018 Annual Meeting, Mr. Guay reported that the PALS was expecting to complete the first draft of a “Recommended Best Practice” document in 2018 and would begin to do vetting amongst a group of NCWM volunteers. Once input is received and incorporated, the PALS plans to reach out to FDA to review the content of the document with their compliance organization for further input. In addition, the PALS began discussing the need for clarity of packaging and labeling requirements for products which are sold solely in e-commerce distribution. These products may be modified in design and labeling compared to packages intended for retail shelf sale.

At the 2019 Interim Meeting, Mr. Guay reported that the text of “Recommended Best Practice” was complete except for the inclusion of a few paragraphs. Work was continuing on an illustrative appendix, with graphics support being provided by the NCWM Office. PALS is also starting to define e-commerce product net content labeling requirements beginning with standard packages. PALS would then proceed to discuss random weight and bulk products.

At the 2019 Annual Meeting, Mr. Guay reported that the PALS submitted comments on behalf of NCWM regarding an FSIS proposal to revise its declaration-of-net-quantity regulations. These comments encouraged FSIS to make its requirements aligned with the requirements of the Fair Packaging and Labeling Act. PALS will also be submitting NCWM comments in response to three proposals from Alcohol and Tobacco Tax and Trade Bureau pertaining to net quantity declarations at the end of August 2019. PALS also discussed the content for comments to the Alcohol and Tobacco Tax and Trade Bureau and they will be drafted by mid-August 2019 and submitted at the end of the month.

PALS also discussed e-commerce transactions as part of its development of a proposal to cover standard, random, and bulk packages sold on-line for shipment or delivery to the purchaser. PALS plans to draft a proposed regulation covering requirements for the on-line sites which sell these types of products and for products that are received at home by the purchaser. When this proposal has been developed, it will be forwarded to the Laws and Regulations Committee for consideration on its agenda.

Regional Association Comments:

WWMA 2018 Annual Meeting: The committee appreciates the efforts of PALS and recommends this item remain as a Developing Item.

CWMA 2019 Annual Meeting: Mr. Guay (PALS Chair) commented that PALS is working on a number of projects, including labeling requirements for products sold specifically through e-commerce.

NEWMA 2019 Annual Meeting: Mr. Guay (PALS Chair) commented that PALS is currently working on two major projects: 1) statements related to quantity in addition to the net quantity declaration; 2) products sold exclusively through e-commerce and how those should be labeled.

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