

Laws and Regulations Committee Interim Agenda

Joe Benavides, Chairman
Austin, Texas

Reference
Key Number

200 INTRODUCTION

The Laws and Regulations Committee (Committee) will address the following items at its Interim Meeting. Table A identifies agenda items by Reference Key Number, title, and page number. The first three digits of the Reference Key Numbers of the items are assigned from the subject series listed below. The fact that an item may appear on the agenda does not mean it will be presented to the National Conference on Weights and Measures (NCWM) for a vote; the Committee may withdraw some items, present some items for information and further study, issue interpretations, or make specific recommendations for changes to the publications listed below. The recommendations presented in this agenda are statements of proposal and not necessarily recommendations of the Committee. The appendices to the report are listed in Table B. Table C is a glossary of Acronyms and Terms.

This agenda contains recommendations to amend National Institute of Standards and Technology (NIST) Handbook 130, “Uniform Laws and Regulations,” (2010), and NIST Handbook 133, “Checking the Net Contents of Packaged Goods,” (2005) Fourth Edition. Revisions proposed for the handbooks are shown in **bold face print** by ~~striking out~~ information to be deleted and underlining information to be added. Additions proposed for the handbooks are designated as such and are shown in **bold face print**. Proposals presented for information only are designated as such and are shown in *italic* type. The section mark, “§,” is used in most references in the text and is followed by the section number and title, (for example, Section 1.2. Weight).

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Weighmaster Law (WL).....	222 Series
Engine Fuels and Automotive Lubricants Inspection Law (EFL)	223 Series
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Voluntary Registration Regulation (VRR).....	234 Series
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Table C
Glossary of Acronyms and Terms

AASCO	Association of American Seed Control Officials	L&R	Laws and Regulations
AOSA	Association of Official Seed Analyst	NCWM	National Conference on Weights & Measures
ASTA	American Seed Trade Association	NIST	National Institute of Standards & Technology
ASTM	American Society for Testing and Materials International	MLWG	Moisture Loss Work Group
CFR	Code of Federal Regulations	NCWM	National Conference on Weights & Measures
CNG	Compressed Natural Gas	NEWMA	Northeast Weights & Measures Association
CWMA	Central Weights & Measures Assn.	NFPA	National Fire Protection Association
FALS	Fuels and Lubricants Subcommittee	NTEP	National Type Evaluation Program
FDA	Food and Drug Administration	Pa	Pascal
FD&C Act	Food Drug and Cosmetic Act	S&T	Specifications & Tolerances
FPLA	Fair Packaging and Labeling Act	SI	International System of Units
FSIS	Food Safety and Inspection Service	SWMA	Southern Weights & Measures Association
FSS	Fuel Specifications Subcommittee	UPLR	Uniform Packaging and Labeling Regulation
FTC	Federal Trade Commission	USDA	U.S. Department of Agriculture
HB 44	NIST Handbook 44, <i>Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</i>	USNWG	U.S. National Work Group
HB 130	NIST Handbook 130, <i>Uniform Laws and Regulations in the areas of Legal Metrology and Engine Fuel Quality</i>	Weights	Mass
HB 133	NIST Handbook 133, <i>Checking the Net Content of Packaged Goods</i>	WG	Work Group
IDFA	International Dairy Food Association	WMD	NIST Weights & Measures Division
IICA	International Ice Cream Association	WWMA	Western Weights & Measures Association
kg	Kilogram		

Details of all Items
(In order by Reference Key Number)

232 METHOD OF SALE REGULATION

232-3 Method of Sale for Fireplace and Stove Wood, Flavoring Chips, and Packaged Natural Wood

Source: Southern Weights and Measures Association (SWMA). (2008 Carryover Item.)

Purpose: The current regulation lacks a clearly stated requirement for the appropriate unit use of metric measure by volume for fireplace and stove wood, flavoring chips and packaged natural wood. When a quantity statement for cubic meter is carried out to three decimal points, it is likely not useful in making value comparisons. The purpose of this proposal is to clarify the requirement for the display of metric units.

Handbook 130 (HB 130), *Uniform Laws and Regulations in the areas of Legal Metrology and Engine Fuel Quality*, Method of Sale Regulation, Section 2.4.3.(d) states that flavoring chips shall be sold by volume, but it falls short of saying which volume units are required. Packers refer to Section 2.4.3. Quantity, where the guidance seems to imply that chips must be sold by the cubic meter. This creates a conflict between the Method of Sale of Commodities Regulation and the Uniform Packaging and Labeling Regulation (UPLR) Declaration of Quantity for Consumer Packages Rule of 1000. Using cubic centimeters creates a conflict as well.

Item Under Consideration: Amend Section 2.4.3. as follows:

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

- (a) Packaged natural wood. – Natural wood offered for sale in packaged form in quantities less than 0.45 m^3 ($1/8$ cord or 16 ft^3) shall display the quantity in terms of ~~cubic meters~~ liters, to include ~~decimal~~ fractions of ~~cubic meters~~ liters; or cubic feet or cubic inches up to one cubic foot, to include fractions of a cubic foot.
(Amended 20XX)
- (b) Artificial compressed or processed logs. – A single fireplace log shall be sold by weight, and packages of such individual logs shall be sold by weight plus count.
- (c) Stove wood pellets or chips. – Pellets or chips not greater than 15 cm (6 in) in any dimension shall be sold by weight. This requirement does not apply to flavoring chips.
(Amended 1976 and 1991)
- (d) Flavoring chips. – ~~Flavoring chips shall be sold by volume.~~ Flavoring chips offered for sale in packaged form in quantities less than 0.45 m^3 ($1/8$ cord or 16 ft^3) shall display the quantity in terms of liters, to include fractions of liters, cubic feet, or cubic inches up to one cubic foot, to include fractions of a cubic foot.
(Added 1998) (Amended 20XX)

Note: In determining the appropriate Method of Sale, a clear distinction must be made as to whether the wood is being sold primarily as fuel (some wood is sold as fuel but flavoring is a byproduct) or strictly as a wood flavoring.
(Added 20XX)

Background/Discussion: A state cited a company for a violation of the jurisdictions net quantity contents labeling for flavoring chips. This citation also led to this company’s product being removed from sale. The company then initiated a review of all of its packaging and labeling to ensure compliance with HB 130 regulations. The company

requested assistance from Weights and Measures Division (WMD) on the appropriate unit of metric measure for their flavoring chip packaging. Upon review, it became apparent that the regulation was ambiguous about the appropriate unit to be used of metric measure by volume. When a quantity statement for cubic meter is carried out to three decimal points, it is likely not useful in making value comparisons.

In HB 130, Method of Sale Regulation, Section 2.4.3.(d) states that flavoring chips shall be sold by volume, but it falls short of saying which volume units are required. Most packers also refer to Section 2.4.3. Quantity; where the Commodities Regulation and UPLR-Declaration of Quantity for Consumer Packages Rule of 1000. Using cubic centimeters also causes a conflict. Most states, if not all, give precedent to UPLR over the Method of Sale because most jurisdictions adopt the UPLR and not the Method of Sale of Commodities Regulation.

This item was presented at NCWM 2008 Annual Meeting and at all of the 2008 Regional Meetings.

At the 2009 Interim Meeting, it was requested to add the words “up to one cubic foot” after the words cubic inches. The Committee agreed to modify the proposal and move it forward for a vote at the 2009 Annual Meeting.

At the 2009 Central Weights and Measures Association (CWMA) Annual Meeting in St. Louis, Missouri, on May 3 - 6, 2009, a NIST Technical Advisor recommended that the proposal be changed in Section 2.4.3.(a) to read as ...fractions of **liters ~~cubic meters~~**. A state regulator stated that the proposal conflicts with HB 44 “Units of Measures” and believes that liters should only be used for fluid measurements. After review of HB 44, Appendix C (pgs C-2 and C-8), the CWMA L&R Committee did not feel that there is a conflict. The CWMA L&R Committee supports this item for the following reasons: “A precedent has been established for use of liters in dry measure (e.g., mulch), traditional industry practices utilize liters as their method of sale, it provides a better value comparison, and it would remove the current conflict with violation of the Rule of 1000 when cubic meters are used.”

At the 2009 Northeast Weights and Measures Association (NEWMA) Annual Meeting in South Portland, Maine, May 11 - 14, 2009, the NEWMA L&R Committee supported this item along with the recommended changes from the NIST Technical Advisor. A NIST Technical Advisor recommended that the proposal be change in Section 2.4.3.(a) to read as: ...fractions of **liters ~~cubic meters~~**. A state official stated that the changes to this section are being made to correct a technical error with the use of metric measure and that customary units will not change. An industry representative questioned whether liters would be the correct metric measure and suggested decimeters. It was noted that decimeters and liters are equivalent.

At the 2009 NCWM Annual Meeting in San Antonio, Texas, there was discussion that this proposal needs additional review by the NCWM L&R Committee for editorial changes. The original proposal did not adequately correct the issue and for that reason it was not adopted at the 2009 NCWM Annual Meeting and was returned to the NCWM L&R Committee for further consideration. It was recommended that the term “fraction of liters and cubic feet” be given consideration.

At the 2009 Central Weights and Measures Association (CWMA) Interim Meeting in Rock Island, Illinois, the participants supported the proposal in the recommendation shown above. The CWMA recommended to the NCWM Committee that the proposal under consideration go forward as a Voting item.

At the 2009 Western Weights and Measures Association (WWMA) Annual Meeting in Los Cruces, New Mexico, the WWMA L&R Committee heard specific recommendations for changes to the current proposal during its open hearings. The WWMA L&R Committee supports the need for clarification and this could be accomplished by changing the following wording to replace the current recommendation with:

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

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

(1) ~~cubic meters~~ **liters**, to include ~~decimal~~ fractions of ~~cubic meters~~ **liters**; or

- (2) **for quantities less than one cubic foot, in terms of cubic inches;** or
 - (3) **for quantities of one cubic foot or greater, in terms of cubic feet,** to include fractions of **a cubic feet-foot.**
- (f) Artificial compressed or processed logs. – A single fireplace log shall be sold by weight, and packages of such individual logs shall be sold by weight plus count.
- (g) Stove wood pellets or chips. – Pellets or chips not greater than 15 cm (6 in) in any dimension shall be sold by weight. This requirement does not apply to flavoring chips.
(Amended 1976 and 1991)
- (h) Flavoring chips. – ~~Flavoring chips shall be sold by volume.~~ **Flavoring chips offered for sale in packaged form in quantities less than 0.45 m³ (¹/₈ cord or 16 ft³) shall display the quantity in terms of:**
- (1) ~~cubic meters~~ **liters**, to include ~~decimal~~ fractions of ~~cubic meters~~ **liters**; or
 - (2) **for quantities less than one cubic foot, in terms of cubic inches;** or
 - (3) **for quantities of one cubic foot or greater, in terms of cubic feet,** to include fractions of **a cubic feet-foot.**
- (Added 1998) **(Amended 20XX)**

At the 2009 Southern Weights and Measures Association (SWMA) Annual Meeting in Clearwater, Florida, the SWMA L&R Committee received a comment from an industry representative that there are two legal units of measurement but only one unit of measurement is being proposed in this item. An industry representative expressed that additional work needs to be done on this item. The SWMA recommends to the NCWM L&R Committee that this item go forward as a Voting item.

At the 2009 Northeast Weights and Measures Association (NEWMA) Interim Meeting held in Springfield, Massachusetts, they received positive comments on this proposal. NEWMA also reviewed the WWMA 2009 changes and supports this Item.

260 NIST HANDBOOK 133

260-1 Guidance on Allowing for Moisture Loss and Other Revisions

Source: Moisture Loss Work Group (MLWG).

Purpose: Revise and update the 4th Edition of NIST Handbook 133 (HB 133) “Checking the Net Contents of Packaged Goods” (2005). Some of the changes were developed to improve the guidance on making moisture allowances.

Item Under Consideration: Current changes and recommendations to HB 133 are reflected in Appendix A, Proposed Amendments and Editorial Changes. A working draft document of Handbook 133 is presented in Appendix B, Handbook 133, “Checking the Net Contents of Packaged Goods,” 4th Edition, proposed changes for 2011.

Background/Discussion: At the 2009 NCWM Interim Meeting in Daytona Beach, Florida, the NIST Technical Advisor gave a presentation to the MLWG titled, “NIST Handbook 133 Checking the Net Contents of Packaged Goods – An explanation of its statistical requirements and approaches to allowing for moisture loss from packaged goods.”

The MLWG reviewed draft changes it developed to revise and update HB 133. Some of the proposed changes and recommendations were developed to improve the guidance on making moisture allowances. It was requested that comments or concerns regarding the draft changes be submitted to the NIST Technical Advisor. It was recommended that the states distribute this document to interested parties within their state for comment. The MLWG met Sunday, July 12, 2009, at the Annual Meeting in San Antonio, Texas, to consider any comments received prior to the meeting.

The U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS) issued a final ruling on 9 CFR parts, 317, 381, and 442 (refer to NCWM Publication 15, 2009 NCWM Interim Meeting Agenda, Table B, Appendix B) "Determining Net Weight Compliance for Meat and Poultry Products," that states the procedures set forth for determining "net weight compliance." This ruling requires the use of the 4th Edition of HB 133 for all inspections of packages of meat and poultry products subject to federal law and USDA regulations effective October 9, 2008. Therefore, the incorporated provisions of NIST Handbook 133 do not serve merely as compliance guidance but are a part of the meat and poultry products inspection regulations.

To be consistent with this final rule, state and local officials must determine net weight compliance for meat and poultry products, including single-ingredient, raw poultry, in a manner that includes the free-flowing liquids as part of the product and not part of the tare weight.

The MLWG updated HB 133 Section 2.3., "Basic Test Procedure," to be consistent with 9 CFR parts, 317, 381, and 442. That means removing any reference to the "wet tare" method for determining net weight of USDA restricted products, since FSIS considers free-flowing liquid to be part of the product.

At the CWMA 2009 Annual Meeting held May 3 - 6, 2009, in St. Louis, Missouri, the Committee recommended support of this item after reviewing the current proposed revisions (refer to CWMA's 2009 Annual Report) to HB 133. Comments documented during open hearings included the following recommendations from an industry representative:

1. Chapter 1-3 – add "compliance" to the reasons listed since manufacturers "overpack" to meet current regulations;
2. Chapter 1-2 – "moisture" should be inserted in front of allowance (last paragraph of page L&R - C5); there is a need to recognize that other products may be subject to moisture loss for which allowances have not been established;
3. Chapter 2-3 and Chapter 2-5 – the dates referenced can be removed since they are already in the past. The representative cautioned that this proposal does not "finish" the issue with moisture loss.

The CWMA position is there are two questions which remain unanswered: 1) What guidance can be provided for manufacturers with products other than those listed for moisture loss?; and 2) What methodology is necessary for manufacturers to demonstrate the data needed for a moisture allowance?

A state regulator objected to this proposal as a Voting item and stated that members cannot vote on this item since the information will not be available until the July meeting. The official recommended that the proposal be moved to Informational. The regulator acknowledged that HB 133 is a NIST publication but stated that due process must be provided since the NCWM does vote to adopt the changes in this handbook. At the CWMA voting session, the membership voted not to accept the recommendation of the Committee and recommended the item be made Informational.

At the 2009 NEWMA Annual Meeting, held May 11 - 14, 2009, in South Portland, Maine, the Committee recommended support of this item. The group discussed the meaning of "editorial" and agreed that due to the volume of changes being recommended, the correct process is to review all comments received, and then have a vote on them by NCWM. A state official suggested that the document be distributed over the NIST Commodities Server List. A recommended change to HB 133 Chapter 2, Section 2.6., specifically references the use of glaze with

frozen seafood products. It was suggested that wording include other glazed products, such as frozen chicken (i.e., glazed chicken wings).

At the 2009 NCWM Annual Meeting in San Antonio, Texas, the MLWG met on July 12, 2009. A NIST Technical Advisor informed the Committee and the MLWG that the draft HB 133 was sent out mid-May 2009 to the Weights and Measures Directors, NCWM HB 44 and Commodities list servers, and e-mailed to stakeholders, MLWG attendees, and trade associations. Additional comments and recommendations received were distributed to the Committee.

HB 133 was reviewed in its entirety by the MLWG (refer to NCWM L&R Committee Report for the 94th Annual Meeting, Appendix F.). Several State Directors voiced concern that they had not had ample time to thoroughly review and evaluate the changes. A draft document of HB 133 is located in NCWM L&R Committee Report for the 94th Annual Meeting, Appendix G.

NIST will incorporate changes from the July 12, 2009, MLWG meeting. NIST will disseminate this information to all stakeholders using their contact point information system and list servers (Weights and Measures (W&M) Directors and the NCWM HB 44 and Commodities list server).

At the 2009 CWMA Interim and the SWMA Annual Meetings, both regions recommended moving the proposed revisions forward as a Voting item at the 2010 NCWM Annual Meeting.

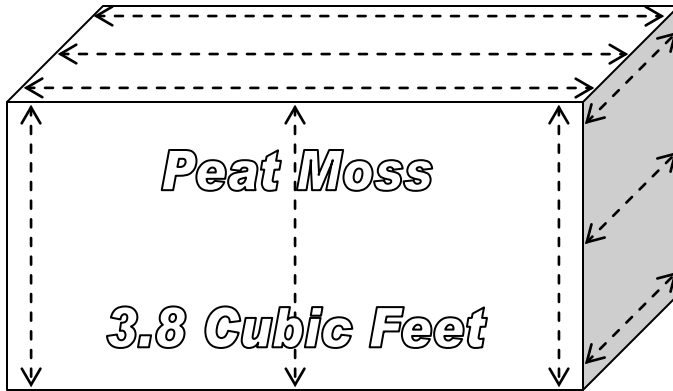
At the 2009 WWMA Annual Meeting held in Los Cruces, New Mexico, the WWMA L&R Committee heard concerns at the open hearings regarding moisture allowance being applied before the package errors are determined. The WWMA L&R Committee discussed that there are jurisdictions that use the before and after application process. Software applications currently in use also apply this method. A California Director informed the Committee that California policy is to take moisture allowance after the package errors are determined. It was requested that the MLWG remain active to clarify and work on the moisture loss issues. Additional resources need to be found to help support the MLWG. The WWMA Committee recommends moving this item forward as a Voting item with the following noted changes (refer to WWMA 2009 Conference Addendum, Appendix A for a detailed description of line items):

- The majority of the WWMA L&R Committee recommended moving forward line Item 7 from the WWMA agenda Appendix A (not accepting line item 8).
 - Section 1.2.(5)a.: The amount of ~~lost~~ moisture loss depends upon the nature of the product, the packaging material, the length of time it is in distribution, environmental conditions, and other factors.

*Revise the first paragraph, last sentence: ...For loss or gain of moisture, ~~apply~~ the moisture allowances **may be applied before or after the package errors are determined.***
- Line Item 25, Section 2.3.8.b. “What are the moisture allowances for flour and dry pet food?” The Committee recommends changing the title on Table 2-3 to read as “**Moisture Allowances for Product in Distribution.**” This could help the Inspector from potentially applying an incorrect test procedure at a production facility.
- Line item 29, Section 2.3.8.d. “What moisture allowance is used with wet tare when testing packages bearing a USDA seal of inspection?” should read as: When there is free-flowing liquid **and liquid or absorbent absorbed by** packing materials in contact with the products, all free liquid **and the absorbed liquid** is part of the wet tare.
- Remove line Item 30, Section 2.3.8.e. “How is moisture loss handled for products not listed in HB 133?” in its entirety and retain as a Developmental item with future work to be done by the MLWG.
- Line Item 61, Section 3.10.a. “How are packages of peat and peat moss labeled by compressed volume testing?” modify the second sentence to add the underlined words and graphic:

- **For each dimension (length, width, and height) take three equidistant measurements, take the average of each respective dimension and multiply to determine the cubic measure as follows:**

$$\text{Average height X average width X average length = cubic measurement}$$



At the NEWMA 2009 Interim Meeting, officials reviewed the changes, located in Appendix A, of language deemed “editorial changes.” While NEWMA supports the majority of “editorial changes,” they have concerns that some of the changes go beyond “editorial” and requests that the language proposed for inclusion on Section 2.3.8. question (e) on page 25 by [Kraft: Paul Hoffman (7/09)] be removed from the editorial changes. NEWMA felt the language proposed for that section is repetitive and that it already exists in other Federal Law.

A state director also requested language previously included in the 3rd edition of HB 133 but was omitted from the 4th edition be included in the newest revision. That language addresses the issue of gray area as it pertains to moisture content and moisture loss. NEWMA also recommends a mocked up copy of HB 133 with highlights of changes be posted on the NIST website.

270 OTHER ITEMS – DEVELOPING ITEMS

INTRODUCTION

The NCWM established a mechanism to disseminate information about emerging issues which have merit and are of national interest. Developing items are those items that have not received sufficient review by all parties affected by the proposals or may be insufficiently developed to warrant review by the NCWM L&R Committee. The Developing items listed are currently under review by at least one regional association, subcommittee, or work group (WG).

The Developing items are marked according to the specific NIST handbook into which they fall – HB 130 or HB 133. The Committee encourages interested parties to examine the proposals included in the appendices and to send their comments to the contact listed in each part.

The Committee asks that the regional weights and measures associations, subcommittees, and WGs continue their work to fully develop each proposal. Should an association, subcommittee, or WG decide to discontinue work on a Developing item, the Committee asks that it be notified. When the status of an item changes because the submitter withdraws the item, the item will be listed in a table below. For more details on items moved from the Developing items list to the Committee’s main agenda, refer to the new reference number in the main agenda.

270-1 Section 2.2.1. in Handbook 130, Uniform Engine Fuels Regulation – Premium Diesel Lubricity

Source: Southern Weights and Measures Association (SWMA) (See Item 270-5 in the Report of the 92nd Annual NCWM Meeting in 2006)

Purpose: Effective January 1, 2005, the test tolerance for regular diesel lubricity was ASTM D6079 reproducibility of 136 μm (see ASTM D975-04b). The NCWM chose to accept the ASTM reproducibility limits for all diesel (D975) and gasoline (D4814) properties (see HB 130, Section 7.2.2. Reproducibility), but chose a different reproducibility limit for premium diesel lubricity without providing any explanation as to why the ASTM reproducibility limit was insufficient. The Chairman of the Fuels and Lubricants Subcommittee (FALS) will provide an update at the 2010 Interim Meeting on the work being done at ASTM.

Item Under Consideration: Amend HB 130, Uniform Engine Fuels and Automotive Lubricants Regulation. Section 2.2.1., Premium Diesel Fuel. The following reflects the current text as it was modified in 2003.

2.2. Diesel Fuel. – shall meet the most recent version of ASTM D975, “Standard Specification for Diesel Fuel Oils.”

2.2.1. Premium Diesel Fuel. – All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to the following requirements:

- (a) **Cetane Number.** – A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D613.
- (b) **Low Temperature Operability.** – A cold flow performance measurement which meets the ASTM D975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D2500 (Cloud Point) or ASTM Standard Test Method D4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
- (c) **Thermal Stability.** – A minimum reflectance measurement of 80 % as determined by ASTM Standard Test Method D6468 (180 min, 150 °C).
- (d) **Lubricity.** – A maximum wear scar diameter of 520 μm as determined by ASTM D6079. If an enforcement jurisdiction’s single test of more than 560 μm is determined, a second test shall be conducted. If the average of the two tests is more than 560 μm , the sample does not conform to the requirements of this part.

(Amended 2003)

Background/ Discussion: (Refer to the NCWM 93rd Annual Meeting (2008) for background information on this item.) A member of the petroleum industry believed the test and associated tolerances for lubricity on premium diesel specified in Section 2.2.1.(d) Lubricity were inconsistent with that for regular diesel. Effective January 1, 2005, the test tolerance for regular diesel lubricity was the ASTM D6079 reproducibility of 136 μm (see ASTM D975-04b). The NCWM chose to accept the ASTM reproducibility limits for all diesel (D975) and gasoline (D4814) properties (see Section 7.2.2. Reproducibility), but chose a different reproducibility limit for premium diesel lubricity without providing any explanation as to why the ASTM reproducibility limit was insufficient. If the NCWM intended to impose a stricter lubricity requirement for premium diesel, it should have designated a tighter specification for this property, not a different test tolerance (e.g., for regular and premium gasoline, premium has a different octane specification than for regular, but the test tolerance is the same). ASTM reproducibility limits were, by definition, based on establishing a 95 % probability that product that should pass, will pass. Applying an average test, as specified in Section 2.2.1.(d), reduced that probability to 80 %.

At the 2006 WWMA Annual Meeting, the L&R Committee received only one comment regarding this item, acknowledging the ongoing review by the FALS. The WWMA noted that the NCWM L&R Committee forwarded

the proposal for review by the Subcommittee and agreed this item should remain Developmental pending its recommendation.

At its 2006 CWMA Interim Meeting, the Committee indicated the NCWM Fuel and Lubricant Subcommittee would make recommendations after ASTM improved the test method's precision and after the conclusion of other tests. The CWMA L&R Committee is awaiting the recommendation from the Subcommittee.

During the 2007 NCWM Interim Meeting, the Committee carried this item over as an Information item. The Committee sent this proposal to FALS and requested its recommendation on how to proceed with the issue. The FALS suggested this item remain on the agenda as an Information item until further notice and reported that the activities of ASTM International and the Coordinating Research Council were continuing.

At the 2008 NCWM Interim Meeting in Albuquerque, New Mexico, and the 2008 NCWM Annual Meeting in Burlington, Vermont, the Committee carried this item over as a Developing item. This proposal was sent to FALS for its recommendation on how to proceed with the issue. FALS suggested this item continue to remain on the agenda as a Developmental item.

At the 2008 CWMA Interim Meeting, the Committee requested that this item remain Informational pending release of the FALS recommendation, Coordinating Research Council study, and the ASTM Lubricity Test Method Task Force reports. At the 2008 NEWMA, WWMA and SWMA Annual Meetings, the Committees recommended that this item remain Informational.

In October 2008, NEWMA held their Interim Meeting, where they heard from a representative of the bio-diesel industry who briefed members on the newly adopted FTC standards regarding bio-diesel products, including the labeling of B-5, B-20, and B-100. One member expressed a concern regarding the "field testing" of bio-fuel blends and quality. This member also expressed that not enough testing occurs with regard to "octane quality" and that bio-blend testing would probably be conducted even less.

At the 2009 NCWM Interim Meeting in Daytona Beach, Florida, FALS reported to the Committee that they are awaiting development of items from ASTM.

At the 2009 CWMA Annual Meeting, the Committee recommended that this item remain Informational. The Chairman of the FALS provided an update on the work being done at ASTM. ASTM conducted a round robin to develop better precision for measuring lubricity. There is a Coordinating Research Council study to determine whether the wear scar limit is adequate to provide protection.

At the 2009 NEWMA Annual Meeting, the Committee recommended that this item remain Informational.

At the 2009 Annual Meeting held in San Antonio, Texas, the FALS Chairperson gave an update that ASTM is still working on improving the precision of the test method. This should go to ballot at ASTM this semester and be final in December. The Committee recommends that this item remain informational until ASTM adopts a revision to its standard.

At the 2009 CWMA Interim Meeting, the FALS Chairperson, Ron Hayes, provided CWMA an update on the ASTM ballot to revise the precision of the test method as a result of the recent round robin study. The ballot failed in June at the main committee and the new proposal is being developed for ballot.

At the 2009 WWMA Annual, SWMA Annual, and the NEWMA Interim Meetings there were no comments heard and these regions recommended that this proposal remain a Developing item.

For additional information, please contact Mr. Ron Hayes, FALS Chairman, (573) 751-2922 or ron.hayes@mda.mo.gov by e-mail.

270-2 Fuels and Lubricants Subcommittee (FALS)

Source: The Fuels and Lubricants Subcommittee

Purpose: Update the Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation in HB 130. Another task will be to update the Basic Engine and Fuels, Petroleum Products, and Lubricants Laboratory Publication.

Item Under Consideration: The FALS has met since the 2007 Annual Meeting and continues its work on a number of items in addition to preparing a major revision of the Fuel Ethanol Specifications.

Background/Discussion: The Subcommittee met on January 24, 2007, at the NCWM Interim Meeting to undertake a review of a number of significant issues related to fuel standards. Their first project was to undertake a major review and update of the Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation in HB 130. The Subcommittee also met at the 2007 NCWM Annual Meeting and continued its work on a number of items in addition to preparing a major revision of the Fuel Ethanol Specifications.

An additional project will be to update and possibly expand the Basic Engine Fuels, Petroleum Products, and Lubricants Laboratory Publication. The Subcommittee will undertake other projects as time and resources permit.

At the 2009 NCWM Interim Meeting and Annual Meeting, the FALS Chairperson informed the Committee that FALS is working toward getting changes made to the language within the document.

At the CWMA 2009 Interim, WWMA 2009 Annual, SWMA 2009 Annual, and the NEWMA 2009 Interim Meetings, there were no comments heard. They recommend that this proposal remain a Developing item.

If you would like to participate in this Subcommittee, contact Mr. Ron Hayes, Chairperson Fuels and Lubricants Subcommittee, at (573) 751-2922, e-mail: ron.hayes@mda.mo.gov, or Mr. David Sefcik at (301) 975-4868, e-mail: david.sefcik@nist.gov

270-3 Pelletized Ice Cream

Source: NIST Weights and Measures Division, International Dairy Foods Association (IDFA), Food and Drug Administration (FDA)

Purpose: Pelletized ice cream is manufactured using very low temperatures and a liquid nitrogen process in order to form the unique beads. FDA declared that pelletized ice cream is a semi-solid food, in accordance with 21 CFR 101.105(a), the appropriate net quantity of content declaration for this type of product is net weight. An FDA official attending the 2009 NCWM Annual Meeting stated that manufacturers have until April 2010 to modify their labels with a net weight declaration. The purpose of this proposal is to amend the current method of sale requirements, which require ice cream to be sold by volume to reflect that FDA now requires pelletized ice cream to be sold by weight.

Item Under Consideration: Insert the following language into HB 130, Method of Sale Regulation

1.7.2. Pelletized Ice Cream - A semi-solid food product manufactured at very low temperatures using a nitrogen process and consisting of small beads of varying sizes. Bits of inclusions (cookies, candy, etc.) that also vary in size and weight may also be mixed with the pellets.

1.7.2.1. Method of Retail Sale - Packaged pelletized ice cream shall be kept, offered, or exposed for sale on the basis of net weight.

(Note: This method of sale shall be enforceable after April 17, 2010)

Background/Discussion: At the 2008 NCWM Annual Meeting open hearings, Ms. Cary Frye, Vice President, Regulatory & Scientific Affairs from the International Ice Cream Association (IICA), gave a briefing on behalf of industry on pelletized ice cream. Ms. Frye gave a briefing on the product, standard of identity, test method procedures, and several other key points. Ms. Frye informed the conference that additional assistance would be required from the FDA (refer to the Table B, Appendix D in the 93rd NCWM Conference Report). Once FDA has addressed the issues and concerns, NIST will host a second meeting at NIST in Gaithersburg, Maryland, to follow up and seek resolution on the outstanding concerns. NIST will send out a meeting announcement to all state Directors and all other interested parties via the NIST Weights and Measures list server.

The WMD submitted to the NCWM L&R Committee detailed minutes pertaining to the June 27, 2008, meeting held at NIST, concerning issues with the pelletized ice cream product. The minutes (refer to Table B Appendix E refer to Item 237-2 in the report of the 94th Interim Meeting in 2009) provide great detail of the current issue, background information, representatives and manufacturers, method of sale, and test method procedure.

This item has been presented at the 2008 WWMA and SWMA Annual Meetings and at the NEWMA and CWMA Interim Meetings. NEWMA discussed this issue, including the FDA's role and their impact on the NCWM process. One member stated that the FDA may be slow to reach a decision because of an impending change in leadership. Another member expressed the difficulty (practical experience) of testing this product. All regions are in agreement that this item should remain Developmental until further information is received from FDA.

At the 2009 NCWM Interim Meeting, it was reported by a NIST technical advisor that FDA was actively working on this item.

At the 2009 NCWM Annual Meeting in San Antonio, Texas, the NIST Technical Advisor presented a letter dated April 17, 2009, (see L&R Appendix D) from the FDA regarding their decision on the method of sale for pelletized ice cream. The FDA declared that pelletized ice cream is a semi-solid food, in accordance with 21 CFR 101.105(a), and the appropriate net quantity of content declaration for this type of product is net weight. An FDA official attending the NCWM Annual Meeting stated that manufacturers have until April 2010 to modify their labels with a net weight declaration. Manufacturers that are unable to meet this deadline will need to contact the FDA. The FDA will look at each extension request on a case-by-case basis. FDA replied to the International Dairy Food Association (IDFA)/International Ice Cream Association (IICA) in a letter dated October 22, 2009, denying their request to change the label compliance date to January 2, 2012 (see L&R Appendix E). The FDA will continue to review any request for an extension on a case-by-case basis.

At the CWMA 2009 Interim, WWMA 2009 Annual, SWMA 2009 Annual, and the NEWMA 2009 Interim Meetings, there were no comments heard, and all regions recommend to the NCWM L&R Committee that the proposed item move forward as a Voting item.

270-4 Method of Sale and Engine Fuel Quality Requirements for Hydrogen

Source: Western Weights and Measures Association (WWMA)

Purpose: Adopt a method of sale and engine fuel quality requirements for hydrogen in HB 130 to address gaseous hydrogen refueling applications. There is a corresponding proposal in Section 360 Other Items of the January 2010 NCWM Interim S&T Agenda to add a Draft Hydrogen Gas Measuring Devices Code to HB 44 to address requirements for hydrogen gas refueling equipment

Item Under Consideration: The U.S. National Work Group (USNWG) Fuel Specifications Subcommittee (FSS) presented the following recommendation for consideration.

Section 2. Non-food Products^[Note 1, page 103]

2.XX. Retail Sales – Hydrogen Fuel (H).

Note: The symbol for hydrogen vehicle fuel shall be the capital letter “H” (the word Hydrogen may also be used).

2.XX.1. Definitions – Hydrogen Fuel (H).

2.XX.1.1. Hydrogen Fuel. – A fuel composed of the chemical hydrogen intended for consumption in an internal combustion engine or fuel cell.

2.XX.2. Method of Retail Sale and Dispenser Labeling. – All hydrogen fuel kept, offered, or exposed for sale and sold at retail shall be in terms of the kilogram.

2.XX.3. Retail Dispenser Labeling.

2.XX.3.1. A computing dispenser must display the unit price in whole cents on the basis of price per kilogram.

2.XX.3.2. 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).

2.XX.3.3. The product identity must be shown in a conspicuous location on the dispenser.

2.XX.3.4. National Fire Protection Association (NFPA) labeling requirements also apply.

2.XX.3.5. Hydrogen shall be labeled in accordance with 16 CFR 309 – FTC Labeling Alternative Fuels.

2.XX.4. Street Sign Prices and Advertisements.

2.XX.4.1. 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).

2.XX.4.2. The sign or advertisement must include the service pressure(s) at which the dispenser(s) delivers hydrogen fuel (e.g., H35 or H70_{MPa}).

FSS supports the proposed new definitions to address gaseous hydrogen refueling applications.

1. Specification for Hydrogen Fuel for Internal Combustion Engines and Fuel Cells
2. Definitions

1.XX. Fuel Cell. – an electrochemical device used to convert hydrogen and oxygen into electrical energy to power a motor vehicle.

1.XX. Hydrogen Fuel. – a fuel composed of the chemical hydrogen intended for consumption in an internal combustion engine or fuel cell.

1.XX. Internal Combustion Engine. – a device used to ignite hydrogen in a confined space to create mechanical energy to power a motor vehicle.

Specification for Hydrogen Fuel:

The FSS identified several quality criteria where there was tentative agreement with their associated values (see properties 6, 7, 8, 9, 12, 14, and 16 which are highlighted in green) in the proposed Table 1. Hydrogen Fuel Quality Specification. When a quality property and numerical value (defining a maximum or minimum limit) is added to the specification, appropriate test methods must then be identified. As test methods are identified and adopted by the FSS, they will be added to column 6 in Table 1. The FSS did not agree on all of the properties contained in the DMS proposal because there was either not enough research data or test methods available to support a decision (see properties 1, 2, 3, 4, 5, 10, 11, 13, and 15 which are highlighted in yellow) in Table 1 below. These and perhaps other properties will receive further consideration by the FSS and may be added to the quality standard in the future when such action is supported by research.

Table 1. Hydrogen Fuel Quality Specification*					
Property		Value	Unit	Limit	Test Method(s)
1	Ammonia	0.1	ppm v/v	Maximum	to be specified
2	Carbon Dioxide	2.0	ppm v/v	Maximum	to be specified
3	Carbon Monoxide	0.2	ppm v/v	Maximum	to be specified
4	Formaldehyde	0.01	ppm v/v	Maximum	to be specified
5	Formic Acid	0.2	ppm v/v	Maximum	to be specified
6	Helium	300.0	ppm v/v	Maximum	to be specified
7	Hydrogen Fuel Index	99.97	% (a)	Minimum	to be specified
8	Nitrogen and Argon	100.0	ppm v/v	Maximum	to be specified
9	Oxygen	5.0	ppm v/v	Maximum	to be specified
10	Particulate Concentration	1.0	µg/L@NTP (b)	Maximum	to be specified
11	Particulates Size	10.0	µm	Maximum	to be specified
12	Total Gases	300.0	ppm v/v (c)	Maximum	to be specified
13	Total Halogenated Compounds	0.05	ppm v/v	Maximum	to be specified
14	Total Hydrocarbons	2.0	ppm v/v (d)	Maximum	to be specified
15	Total Sulfur Compounds	0.004	ppm v/v	Maximum	to be specified
16	Water	5.0	ppm v/v	Maximum	to be specified

Footnotes to Table 1:

- Hydrogen fuel index is the value obtained with the value of total gases (%) subtracted from 100 %.
- Particulate Concentration is stated as µg/L@NTP = micrograms per liter of hydrogen fuel at 0 °C and at one atmosphere pressure (1 bar).
- Total Gases = Sum of all impurities listed on the table except particulates.
- Total Hydrocarbons may exceed 2 ppm v/v only due to the presence of methane, provided that the total gases do not exceed 300 ppm v/v.

*The FTC's Fuel Rating Rule (16 CFR Part 309) see the requirements in "Labeling of Alternative Fuels" at www.ftc.gov/bcp/edu/pubs/business/autos/bus29.shtm requires dispensers to bear a declaration of minimum percent of hydrogen determined according to test methods described in "Standard Test Method for Analysis of Natural Gas by Gas Chromatography" (ASTM D1946).

Background/Discussion: Twenty-four states have hydrogen refueling dispensers in operation. Hydrogen stations using permanent and mobile refueling systems for automobiles, fleet vehicles (buses), forklifts, and airport totes are increasing and may go unnoticed. Many stakeholders who are not familiar with the weights and measures standards process will need to participate at this stage rather than after this is a commercial application. This effort by the USNWG for the Development of Commercial Hydrogen Measurement Standards is to ensure there are appropriate standards and test procedures in place in time for dispenser manufacturers, service agencies, and officials to educate the general public, not if, but for when retail hydrogen applications become commercially available.

Existing codes do not fully address hydrogen refueling applications because of hydrogen's properties and other technical differences in the setup and operations of dispensing systems. The development of legal metrology

standards for newly emerging hydrogen technology is a necessary component of the hydrogen infrastructure. The weights and measures community must have time to consider requirements for hydrogen-refueling systems before this application is available for public access at corner service stations.

The USNWG is bringing the proposal before the weights and measures community to share this information about upcoming standards for an emerging technology. The simultaneous development of the code and corresponding test procedures will allow for input from the weights and measures and hydrogen communities, appropriate trials of the standards, and to address all areas of concerns early in the standards development process.

This item was reviewed at the WWMA and SWMA 2008 Annual Meeting and at the NEWMA 2008 Interim Meeting. NEWMA members generally discussed the “hydrogen issue” and its usage in the marketplace. It is anticipated that hydrogen at first will be relegated to “fleet vehicles” (such as compressed natural gas [CNG]), and that retail sales will be slow in coming to the marketplace. NEWMA recommends that this item remain a Developing item.

At the 2009 Interim and Annual Meetings, the NIST Technical Advisor briefed the Committee on work that the USNWG FSS has done to date (refer to the report of the 94th Annual NCWM Conference, Appendix J for Hydrogen USNWG FSS background information)

There were no comments heard on this proposal at the CWMA 2009 Interim Meeting.

At the WWMA 2009 Annual Meeting, industry representatives acknowledged that some details of the specifications for fuel standards are in development. The WWMA Committee believes it is best to be proactive on this item so that Hydrogen stations can be ready to make retail sales.

At the SWMA 2009 Annual Meeting, the SWMA L&R Committee heard a recommendation from a state that as the test methods are developed they get publish. They also requested that documentation be produced on the affects of hydrogen if they exceed certain property values listed in the table “Hydrogen Fuel Quality Specification,” and why this is important in the testing of hydrogen.

NEWMA reviewed this proposal at their 2009 Interim Meeting and recommends leaving this as a Developing item.

Additional information on this hydrogen proposal and the corresponding hydrogen gas measuring devices code can be found at ts.nist.gov/WeightsAndMeasures/Developing-Commercial-Hydrogen-Measurement-Standards.cfm. For additional information on this item, contact Ms. Lisa Warfield at lisa.warfield@nist.gov or (301) 975-3308.

270-5 Seed Count for Agricultural Seeds

Source: Central Weights and Measures Association

Purpose: To adopt a test procedure for inspection of bulk agricultural seed (specifically corn seed, soybean seed, field bean seed, and wheat seed) labeled by “count,” taking account of this prevalent method of sale and the value to the seed industry and farmers arising from an accurate, practical, efficient, and uniform method.

There is a current standard adopted by the Association of Official Seed Analyst (AOSA) which is broadly accepted by industry. Several states adopt both the AOSA standard and the HB133 regulation, which causes confusion due to conflicting Maximum Allowable Variations (MAV). The MAVs in HB 133 are not considered appropriate for seed counts in which counts can be as high as a 200,000.

Item under Consideration: Amend HB 133 by adding a new Section 4.11. Rules for Testing Seeds and amending Tables 1-1. and 2-10. to provide for a uniform, practical, and accurate method for conducting inspections of specified agricultural seed varieties when labeled and/or sold by “count.” There is consensus among the seed industry, state seed control officials, and academics in support of the AOSA standard for seed counting. This standard should be adopted as part of HB133 to ensure that seed is sold with an accurate count.

American Seed Trade Association (ASTA) requests (see Appendix G, ASTA Seed Count Rule for Agriculture Seeds) that HB 133, Section 4.2. Packages Labeled by Count be amended by adding the language from AOSA “Rules for Testing Seeds,” Section 12 (Mechanical Seed Count) (see below with incorporated changes) as Section 4.11. of Handbook 133, to be titled “Procedure for Checking the Content of Certain Agricultural Seed Packages Labeled by Count” (see Appendix H, AOSA, Section 12: Mechanical Seed Count).

HB 133 Section 4.2. amended to read:

4.2. Packages Labeled by Count

How are packages labeled by count tested?

If the labeled count is more than 50 items **with the exception of corn, soybeans, field beans, and wheat seeds, see Section C 4.4. “Packages Labeled by Count of More than 50 Items.”** **If the labeled count is more than 50 items for corn, soybeans, field beans, and wheat seeds, see Section 4.11 “Procedure for Checking the Contents of Specific Agricultural Seed Packages Labeled by Count.”**

Amend title of Table 2-10. (HB133, Appendix B) to read:

Table 2-10. Exceptions to the Maximum Allowable Variations for Textiles, Polyethylene Sheeting and Film, Mulch and Soil Labeled by Volume, Packaged Firewood and Packages Labeled by Count with Fewer than 50 Items, **and Specific Agricultural Seeds Labeled by Count.**

Amend Table 2-10. to include an additional row as shown below:

<p><u>Specific Agricultural Seeds Labeled By Count</u></p>	<p><u>The MAVs are:</u> <u>For corn seed: 2 % of the labeled count</u> <u>For soybean seed: 4 % of the labeled count</u> <u>For field bean seed: 5 % of the labeled count</u> <u>For wheat seed: 3 % of the labeled count</u></p>
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Amend HB 133, Appendix A, Table 1-1. to adjust for the new name of Table 2-10. (“Table 2-10. Exceptions to the Maximum Allowable Variations for Textiles, Polyethylene Sheeting and Film, Mulch and Soil Labeled by Volume, Packaged Firewood, and Packages Labeled by Count with Fewer than 50 Items, **and Specific Agricultural Seeds Labeled by Count**”).

AOSA Section 12.6. Rules for Testing Seeds - modified for consideration as a new Section 4.11 to HB 133.

12.6. Tolerances ~~Maximum Allowable Variations~~ for results from different laboratories. Multiply the labeled seed count ~~or first seed count test result~~ by 4 % for soybean samples, 2 % for corn (round, flat or plateless) samples, 5 % for field bean samples and 3 % for wheat samples. Express the ~~tolerance~~ **maximum allowable variation** (the number of seeds) to the nearest whole number. Consider the results of two tests in ~~tolerance~~ **accord with the maximum allowable variation** if the difference, expressed as the number of seeds, is equal to or less than the ~~tolerance~~ **maximum allowable variation**.

Example:

Kind of seed: Corn
 Label claim (~~1st test~~): 2275 seeds/lb.

Lab Test (~~2nd test~~): Purity working weight = 500.3 g
 Seed count of pure seed = 2479 seeds

$$\text{Number of seeds per pound} = \frac{453.6 \text{ g/lb} \times 2479 \text{ seeds}}{500.3 \text{ g}} = 2247.6 \text{ seeds/lb}$$

Rounded to the nearest whole number = 2248 seeds/lb

Calculate ~~tolerance~~ **maximum allowable variation** value for corn:

multiply label claim by 2 %

$2275 \text{ seeds/lb} \times 0.02 = 45.5 \text{ seeds/lb}$;

rounded to the nearest whole number = 46 seeds/lb

Determine the difference between label claim and lab test:

$2275 \text{ seeds/lb} - 2248 \text{ seeds/lb} = 27 \text{ seeds/lb}$

The difference between the lab test (~~2nd test~~) and the label claim (~~1st test~~) is less than the ~~tolerance~~ **maximum allowable variation** ($27 < 46$); therefore, the two results are in ~~tolerance~~ **accord with the maximum allowable variation.**

Background/Discussion: The CWMA held their 2009 Interim Meeting on September 13 - 16, 2009, in Rock Island, Illinois. A representative from ASTA explained a proposal regarding seed count for four types of seeds: corn, soybeans, field beans, and wheat. An item to amend the requirement for testing seeds by count was considered approximately ten years ago, but there was a lack of industry consensus at that time. In the interim, state, federal, university seed regulators, and seed laboratories developed a test method after significant scientific testing to provide acceptable MAV's.

There are modern agricultural methods of farming. Farmers are now requesting the number of seeds on packages in order to accommodate their precision planting methods. Since seed is a natural biological product, it can vary in size and weight. There is currently a standard adopted by the Association of Official Seed Analysts (AOSA) that is broadly accepted. Several states adopt both the AOSA standard and HB 133 regulations which is causing confusion because of the conflicting MAV allowances. The HB 133 regulation is not seed specific; therefore, it does not contemplate items being sold in quantities as high as 200,000 per bag. A letter of support was received from the Association of American Seed Control Officials (see Appendix I).

270-6 Handbook 130, Method of Sale Regulation Section 2.13.4. "Declaration of Weight"

Source: Western Weights and Measures Association

Purpose: Update HB 130, Section 2.13.4. to provide new density values for heavier density plastics that are currently in the marketplace.

Item under Consideration: Amend HB 130, Method of Sale Regulation, Section 2.13.4. as follows:

2.13.4. Declaration of Weight. – The labeled statement

~~For the purpose of this regulation, the minimum density shall be 0.92 g/cm³ (when D is not known).~~

~~For the purpose of this regulation, the minimum density shall be 0.92 g/cm³.~~

Amend Section 2.13.4. as follows:

For the purpose of this regulation, **when D is not known**, the minimum density (**D**) used to **calculate the target net weigh for linear low polyethylene products (LLDP) and products other than high density (HDPE)** shall be 0.92 g/cm³ (~~when D is not known~~). **For products labeled "High Density," HDPE, or similar wording, the minimum density (D) used to calculate the target net weight shall be 0.95 g/cm³.**

Background/Discussion: It was stated at the 2009 WWMA Annual Meeting in Los Cruces, New Mexico, that some manufacturers and distributors of polyethylene bags are using the calculated target weight identified in HB 130 Section 2.13.4. to understate the net quantity of their labels. The polyethylene industry recognizes a density value of 0.92 g/cm³ for LLDP. When 0.92 g/cm³ is used to calculate the target net weight of HDPE, the product

may make the target net weight. However, when the appropriate density value of 0.95 g/cm³ is used to test HDPE, the product often fails to meet the calculated target net weight. Further testing reveals that one or more of the labeled width, thickness, or count statements are inaccurate. It appears that some manufacturers are aware that weights and measures officials are restricted to testing HDPE product using the 0.92 g/cm³ value because the actual density value is not stated on the product label. Existing procedural guidelines do not address high density polyethylene materials. When testing at manufacturing locations, weights and measures officials are able to obtain information regarding the density of the product directly from the manufacturer. However, at distributor locations density information is not available and officials must test using the 0.92 g/cm³ value designated in Handbooks 130 and 133 to verify the weight of the product. When the product has no net weight statement on the package, 0.92 g/cm³ is the only factor that the inspector may use to calculate the target net weight.

The 2009 WWMA Association supports this item and recommends that it be a Voting item.

NEWMA reviewed this item at its 2009 Interim Meeting and recommends that this proposal be a Developing item.

270-7 Handbook 133, Chapter 4.7. Polyethylene Sheeting-Test Procedure - Footnote Step 3.

Source: Western Weights and Measures Association

Purpose: Update Handbook 133, Chapter 4.7 Polyethylene Sheeting – Test Procedure to provide new density values for heavier density plastics that are currently in the marketplace.

Polyethylene bags labeled as “High Density,” or HDPE, have been found to package products whose labeled net weights meet calculated target net weights when employing a density factor of 0.92 g/cm³. When a density factor of 0.95 g/cm³ is used, as appropriate, in the calculation for high density polyethylene materials, these products commonly fail to meet the calculated target net weight. Further testing of these packages of polyethylene bags reveals that one or more of the labeled width, thickness, or count statements are inaccurate. HDPE product distributors that place a net weight statement on their packages based upon the Linear Low Density Polyethylene (LLDP) density value (0.92 g/cm³ have an approximately 3 % advantage over the distributor that uses the correct, high density, factor.

Item Under Consideration: Amend the asterisked footnote below Step 3 as follows:

*Determined by ASTM Standard D 1505-98 (**or latest issue**) “Standard Method of Test for Density of Plastics by the Density Gradient Technique.” For the purpose of this handbook, **when the actual density is not known**, the minimum density **used to calculate the target net weight** shall be 0.92 g/cm³ ~~when the actual density is not known~~. **For products labeled “High Density, HDPE, or similar wording, the minimum density (d) used to calculate the target net weight shall be 0.95 g/cm³.**

Background/Discussion: A proposal was presented at the WWMA 2009 Annual Meeting in Los Cruces, New Mexico, that manufacturers and distributors of polyethylene bags labeled as “High Density,” or HDPE, have been found to package products whose labeled net weights meet calculated target net weights when employing a density factor of 0.92 g/cm³. When a density factor of 0.95 g/cm³ is used, as appropriate, in the calculation for high density polyethylene materials, these products commonly fail to meet the calculated target net weight. Further testing of these packages of polyethylene bags reveals that one or more of the labeled width, thickness, or count statements are inaccurate.

For example, a box of HDPE has stated dimensions of 24 in x 40 in x .4 mil, and a count of 250. Using the only density factor found in HB 133, 0.92 g/cm³ the calculated target net weight, and that shown on the label, would be 6.38 lbs. If using the actual density factor for the HDPE bags of 0.95 g/cm³, the target net weight would be 6.59 lb. This means that HDPE product distributors that place a net weight statement on their packages based upon the Linear Low Density Polyethylene (LLDP) density value (0.92 g/cm³ have an approximately 3 % advantage over the distributor that uses the correct, high density, factor.

When the original testing procedure was developed, HDPE bags had not yet entered the marketplace. Currently, this product is quite prevalent in the United States. Amending the test procedure will aid weights and measures inspectors in enforcing labeling requirements that allow true value comparisons and close a loophole within HB 133.

The 2009 WWMA Association supports this item and recommends that it be a Voting item.

NEWMA reviewed this item at their 2009 Interim meeting and proposes this item be a Developing item.

270-8 Handbook 133, Chapter 4.7. Polyethylene Sheeting Test Procedure – T-shirt/cut-out bags

Source: Western Weights and Measures Association (WWMA)

Purpose: To offer guidelines on how to determine the net weights of the high density polyethylene “t-shirt” bags.

Item Under Consideration: Amend Chapter 4.7. Polyethylene Sheeting – Test Procedure as follows:

When testing “t-shirt” or other bags with cut-outs for handles use the following guideline to determine the target net weight amount of product cut-out of the original bag and removed from the container prior to packaging:

Calculate the target net weight in pounds of the bags as if there were no cut-out area:

$$\underline{T \times A \times D \times 0.03613 \times Ct. \times 2 = Z}$$

Calculate target net weight in pounds of the cut out area of bags (A) by multiplying TNW x the Handle Cutout % as found in Table 4.7.(a).

To determine the target net weight (X) of the package of t-shirt bags, subtract TNW-A.

TNW = Calculated Target Net Weight

A = Calculated Target Net Weight of of cut-out area

X = Target net weight of “T-shirt” bags

Example: A package of t-shirt bags is labeled 12 in x 7 in x 22 in, 0.3 mil, 2000 count,

$$\underline{0.0003 \times [(12+7) \times 22 \times 2] \times 0.95 \times 0.03613 \times 2000 = 17.216,}$$

$$\underline{17.216 \text{ lbs} \times 0.107 \text{ (from Table 4.7(a))} = 1.84 \text{ lbs,}}$$

$$\underline{17.216 \text{ lbs} - 1.84 \text{ lbs} = 15.37 \text{ lbs, the target net weight for the t-shirt bag container.}}$$

Table 4.7.(a)		
<u>LENGTH (in)</u>	<u>TOTAL WIDTH FACE WIDTH + GUSSET WIDTH (in)</u>	<u>HANDLE CUT-OUT Percent (%)</u>
<u>14.0 to 16.5</u>	<u>12.0 to 16.5</u>	<u>16.27 %</u>
<u>16.6 to 18.5</u>	<u>12.0 to 16.5</u>	<u>15.60 %</u>
<u>17.0 to 18.5</u>	<u>16.6 to 19.75</u>	<u>13.10 %</u>
<u>18.6 to 19.5</u>	<u>16.6 to 19.75</u>	<u>12.40 %</u>
<u>19.6 to 20.5</u>	<u>16.6 to 19.75</u>	<u>12.65 %</u>
<u>20.6 to 22.0</u>	<u>16.6 to 19.75</u>	<u>10.70 %</u>
<u>22.1 to 23.5</u>	<u>16.6 to 19.0</u>	<u>9.63 %</u>
<u>22.0 to 24.0</u>	<u>19.76 to 22.0</u>	<u>10.40 %</u>
<u>24.1 to 25.5</u>	<u>19.76 to 22.0</u>	<u>8.35 %</u>
<u>28.0 to 32.0</u>	<u>22.0 to 24.0</u>	<u>7.10 %</u>
<u>32.1 to 36.0</u>	<u>22.0 to 24.0</u>	<u>6.04 %</u>
<u>28.0 to 32.0</u>	<u>24.1 to 26.0</u>	<u>6.20 %</u>
<u>32.1 to 36.0</u>	<u>24.1 to 25.0</u>	<u>5.14 %</u>

Background/Discussion: At the 2009 WWMA Annual Meeting held in Los Cruces, New Mexico, this proposal was submitted. Over the past several years, there has been a rapid expansion of the production and distribution of high density polyethylene “t-shirt” (grocery) bags. The current directions for calculating the target net weight of packages containing these bags offer no guidelines on how to determine net weight. Calculating the net weight of the cut-out area has been a challenge. It has been difficult to ensure that the weight statements on the packages are accurate. Spectrum Plastics Inc. located in Los Angeles County, California, developed, with the assistance of an engineering firm, a table (above) to provide guidelines to calculate the amount of cut-out area.

The 2009 WWMA L&R Committee did not feel that sufficient background data was submitted from various sources. There are a large number of distributors of domestic and imported products with these types of bags. The HDPE shopping bags are a significant portion of the market. However, once additional data is received and validated, a proposed method of testing of the target net weights could save field testing time. They recommend this proposal be Developing.

NEWMA reviewed this proposal at its 2009 Interim Meeting and recommends it be a Developing item.

270-9 HB 130 - Uniform Regulation for Method of Sale of Commodities - Packaged Printer Ink and Toner Cartridges

Source: Southern Weights and Measures Association (SWMA)

Purpose: This proposal is to clarify the requirements for industry, consumers and weights and measures officials.

Item Under Consideration:

2.XX. Printer Ink and Toner Cartridges.

2.XX.1 Definitions.

2.XX.1.1. Printer ink cartridges – Any cartridge or module that contains ink or a similar substance in liquid form employed in the printing of documents, papers, pictures, etc., that is used in a printing device and designed to be replaced when no longer able to supply its contents in printing.

2.XX.1.2. Toner cartridges – Any cartridge or module that contains toner, powder, or similar non-liquid substance employed in the copying or printing of documents, papers, pictures, etc.

that is used in a copying device and designed to be replaced when no longer able to supply its contents in printing and/or copying.

2.XX.2. Method of Sale and Labeling.

2.XX.2.1. Method of sale, printer ink cartridges. – All printer ink cartridges kept, offered, or exposed for sale or sold shall be sold in terms of the count of such cartridges and the fluid volume of ink in each cartridge stated in terms of milliliters or fluid ounces.

2.XX.2.2. Method of Sale, toner cartridges. – All toner cartridges kept, offered, or exposed for sale or sold shall be sold in terms of the count of such cartridges and the net weight of toner substance

(Added 20XX)

Background/Discussion: Over the past several years, there has been a change in the marketplace on inkjet and toner cartridges net content statements. Currently, there is little uniformity in the marketplace on this item, and the Committee is seeing some labels with a net content or with only a page yield count (e.g., prints 1000 pages). The WMD follows guidelines printed in HB 130 from the Weights and Measures Law, Section 19 “information required on packages” that these products are required to have the net contents of the ink (and toner) labeled, but manufacturers have resisted, claiming an exemption under the Fair Packaging and Labeling Act. The purpose of this proposal is to specifically clarify the requirements for industry, consumers, and weights and measures officials.

At the 2009 SWMA Annual Meeting in Clearwater, Florida, a Lexmark representative commented that they do not believe that a net content statement should be required, and that a page yield is sufficient. He read the main points of a letter from Lexmark to Max Gray, dated March 17, 2009. The main points within the letter were: 1) the ink associated with a cartridge is a small fraction of the total cost of the print cartridge mechanism; 2) a page yield can provide a meaningful comparison to a consumer if all manufacturers employ the same estimating assumptions and techniques; and 3) International Organization for Standardization (ISO) studied this issue for years and has rejected reliance on ink volume or quantity, instead ISO has developed a yield estimating and claiming methodology that permits cartridges to be compared using a consistent yardstick. Unlike ink volume measurements, page yield measurements provide a consumer with a reliable way to compare the amount of printing that can be expected. Lexmark also stated that ink is expressly exempt from labeling as provided by the Fair Packaging and Labeling Act (FPLA) 16 CFR 503.2(a).

An industry representative feels this issue does need to be discussed and reviewed further. However, many officials believe that ink jet cartridges are expensive and consumers should know what they are getting. If it is determined that page count would be the identity, then the page print standard should be reviewed and have tighter standards.

Mr. Max Gray feels that more data is needed from manufacturers on this issue.

The SWMA L&R Committee recommends the item for consideration for Developing by the NCWM L&R Committee.

270-10 HB 130 Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends

Source: Southern Weights and Measures Association (SWMA)

Purpose: Amend Section 3.15. Biodiesel and Biodiesel Blends of the Engine Fuels and Automotive Lubricants Regulation to remove the exemption for declaration of biodiesel content on product transfer documents for biodiesel blends up to 5 %.

Item Under Consideration: Amend Section 3.15. Biodiesel and Biodiesel Blends of the Engine Fuels and Automotive Lubricants Regulation.

3.15. Biodiesel and Biodiesel Blends

3.15.1. 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.”

3.15.2. Labeling of Retail Dispensers.

3.15.2.1. Labeling of Grade Required. – Biodiesel shall be identified by the grades S15 or S500. ~~B~~biodiesel ~~B~~blends shall be identified by the grades No. 1-D, No. 2-D, or No. 4-D.

3.15.2.2. 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.

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

3.15.2.4. 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 (1/4 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.

3.15.3. 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.~~

3.15.4. Exemption. – Biodiesel blends that contain less than or equal to 5 % biodiesel by volume are exempted from the requirements of Sections 3.15.1., and 3.15.2., ~~and 3.15.3.~~ when it is sold as “diesel fuel” as required in Section 3.3.

(Added 2005) (Amended 2008 and 20XX)

Background/Discussion: At the 2009 SWMA Annual Meeting held in Clearwater, Florida, a discussion over blending was presented by a FALS member. Biodiesel is being blended at many terminals across the country in concentrations up to 5 %. Marketers downstream of the terminal are then attempting to blend additional biodiesel to target levels, and finding that their product is being over-blended because they were not aware that the fuel contained any biodiesel. Per Randy Jennings, Tennessee, at least one major truck stop operator has already voiced concerns to the FALS Chairman. This amended proposal will remove the exemption declaration of biodiesel content on product transfer documents for biodiesel blends up to 5 %. Biodiesel is blended at terminals in concentrations up to 5 %. Randy Jennings felt it was important to start this recommendation and have the FALS Chairperson vet the proposal out to all members of the FALS Committee for their comments before the NCWM Interim meeting in January 2010.

The SWMA Committee recommends moving this item forward to the NCWM L&R Committee Agenda as a Voting item.

270-11 Handbook 133, Method of Measurement of the Volume of Bagged Mulch

Source: Southern Weights and Measures Association (SWMA)

Purpose: Update HB 133 for the volume measurement of bag mulch, and update moisture allowance, decomposition and specification changes for testing bag mulch.

Item Under Consideration: Amend HB 133

Chapter 2, Section 2.3. Basic Test Procedure, “Moisture Allowances”:

The purchase date of the bagged mulch product needs to be known, so that an adjustment to the bagged mulch may be made to reflect decomposition since the purchase date.

Chapter 3, 3.11. Mulch and Soils Labeled by Volume - Add a bulleted item:

The decomposition of wood mulch occurs over a period of time. The purchase date of the product needs to be known, so that an adjustment to the product may be made to reflect decomposition since the purchase date.

Chapter 3, 3.11. Revise Table 3-4 “Specifications for Test Measures for Mulch and Soils” **56.6 L (2 ft³) bag measure for bag mulch 30.48 cm (12 in) X 30.48 cm (12 in) X 60.96 cm (24 in)**

Background/Discussion: Mr. Tomlinson from Amerigrow was unable to attend the SWMA 2009 Annual Meeting in Clearwater, Florida. Mr. Max Gray briefed the SWMA conference on this proposal (refer to appendix L, Amerigrow Mulch Proposal) for bag mulch. Bag mulch is a type of product that suffers from decomposition and desiccation and turns to dirt as it ages. However, no lot number, expiration date, or date of pack is being placed onto bags to determine its age.

Amerigrow recommends adding languages within HB 133 stating that the purchase date of the product needs to be proven so that reasonable adjustments can be made to reflect the decomposition since the “purchase date.” Amerigrow also stated that that mulch bags are easy to tamper (open and reseal) and that a chain of custody needs to be implemented, beginning with the purchase date. A chain of custody will also assist with determining the age of the mulch and the conditions in which it was stored.

Another issue with bag mulch is it is available with different grinds that can produce different fill rates when measured in the measuring box specified in HB 133 Table 3-4. Finer mulch does not benefit from rolling the bags and fluffing the mulch. Amerigrow has provided the SWMA with new specifications for the measuring box **(56.6 L (2 ft³) bag measure for bag mulch 30.48 cm (12 in) X 30.48 cm (12 in) X 60.96 cm (24 in).)**

The 2009 SWMA L&R Committee recommended moving this item forward as a Developing item to the NCWM L&R Committee. The Committee would like industry to be notified on this proposal and seeks additional information and comments.

270-12 Handbook 130, Method of Sale, Section 2.23. Animal Bedding

Source: Southern Weights and Measures Association (SWMA)

Purpose: To amend NIST HB 130, Method of Sale, Section 2.23. and the Interpretations and Guidelines Section 2.3.16. to accommodate the special needs and provisions of granular, pelleted, and other non-compressible dry laboratory animal bedding materials sold to commercial end-users in the specialized lab animal research industry on a weight or per pound basis.

Item Under Consideration: Amend HB 130, Method of Sale, Section 2.23,

Section 2.23. Paragraph 1, Sentence 1 as follows:

2.23. Animal Bedding. – Packaged animal bedding of all kinds, except for baled straw, shall be sold by volume, that is, by the cubic meter, liter, or milliliter and by the cubic yard, cubic foot or cubic inch. If the commodity is packaged in a compressed state, the quantity declaration shall include both the quantity in the compressed state and the usable quantity that can be recovered.

Example: 250 mL expands to 500 mL (500 in³ expands to 1000 in³).
(Added 1990)

2.23.1. Packaged animal bedding consisting of granular corncobs and other dry (less than 8 % moisture or less), pelleted and/or non-compressible bedding materials that are sold to commercial (non-retail) end users in the laboratory animal research industry (government agencies, medical centers and universities, pharmaceutical and pre-clinical contract research organizations and other biotech and related research institutions) can still be sold on the basis of weight.

(Added 20XX)

HB 130, Interpretations and Guidelines: Remove this section.

~~2.3.16. Animal Bedding~~

~~(L&R, 1988, p. 159)~~

~~Recommended Method of Sale~~

~~Animal bedding of all kinds, except for baled straw, should be sold by volume, that is, by the cubic meter, cubic yard, cubic foot or cubic inch.~~

~~The test method in Handbook 133, Section 4.11. Peat Moss, can be used for animal bedding. The test official should “fluff up” or in some way reduce the amount of compaction of product that may occur under ordinary packaging and distribution processes prior to testing.~~

Background/Discussion: At the 2009 SWMA Annual Meeting in Clearwater, Florida, Terry Burns-Heffner from Harlan Laboratories gave a briefing on “Bedding Packaging for Research Applications.”

The speaker recommended that HB 130 be modified primarily to better control and regulate retail materials, such as mulch, peat moss, and top soil that were being sold by weight, but could easily be “spiked” with moisture. During the revision of this guideline, animal bedding materials were also rolled into this category.

For dry, non-compressible bedding substrates, such as granular corn cobs and pelleted paper, wood, and corn cobs that are sold to commercial end users in the laboratory animal research industry, this generalized classification and change from selling by weight to selling by volume is inappropriate for numerous reasons:

1. Requiring the sale of dry, granular or non-compressible pelleted bedding materials on the basis of volume provides an incentive for the manufacturer to produce lighter, less dense bedding, and therefore that bedding has less absorptive capacity. Therefore, selling bedding by volume is not in the consumers’ best interest, because it is the amount of absorbent material in a cage that is most important, not the volume.
2. Historically, consumers in this non-retail industry segment, including government and regulatory agencies, such as the NIH, the DOD, and pharmaceutical and university research sites, have purchased bedding material on the basis of weight.
3. There are existing governing bid specifications on all lab animal bedding material that tightly controls the nature and consistency of the bedding materials sold for this specific purpose. These specifications include restrictions on maximum moisture concentration, which generally require all bedding materials to contain

less than 10 % moisture. Typical moisture range for these materials is in the 6 % to 8 % range. This has become the industry standard.

4. Verification of package contents is very easy to do if it is packaged by weight. Verification of proper package content becomes difficult when product is packaged by volume, and once again there is the opportunity/incentive for the manufacturer to reduce amounts bedding material put into packages over time. This verification is even more difficult on larger, bulk packages, such as the large bulk totes ranging in weight from 500 lb to 2000 lb.

270-13 National Pasta Association - Handbook 133, Moisture Allowance for Pasta Products

Source: Southern Weights and Measures Association (SWMA)

Purpose: Amend Handbook 133 by adopting a 3 % moisture allowance for macaroni, noodle, and like products (pasta products).

Item Under Consideration: Amend HB 133, Chapters 1 and 2, Moisture allowance to be amended as follows and which will incorporate a 3 % moisture allowance for pasta products, adding the language in bold below:

- Chapter 1: Why do we allow for moisture loss or gain?
 - This handbook provides “moisture allowances” for some meat and poultry products, flour, **pasta products**, and dry pet food.
 - Test procedures for flour, **pasta products**, some meat, and poultry are based on the concept of a “moisture allowance” also known as a “gray area” or “no decision” area.
- Chapter 2: Moisture Allowances:
 - What is the moisture allowance for flour, pasta products, and dry pet food? The moisture allowance for flour, pasta products, and dry pet food is 3 % of the labeled net weight.

Note: Pasta products means all macaroni, noodle, and like products packaged in Kraft paper bags, paperboard cartons, and/or flexible plastic bags with a moisture content of 13 % or less at the time of pack.

- Chapter 2: How is the average error for the moisture allowance corrected?
 - This handbook provides “moisture allowances” for some meat and poultry products, flour, pasta products, and dry pet food.

Background/Discussion: Studies indicate that moisture loss for pasta products is reasonably predictable over time (see Appendix M, National Pasta Association Proposal to Establish a Moisture Allowance for Pasta Products). Pasta exhibits consistent moisture loss in all environments and packaging, which can vary more than 4 % due to environmental and geographic conditions. Although it eventually reaches equilibrium with the surrounding atmosphere because it is hygroscopic, this balance does not occur until long after packaging and shipping.

270-14 Handbook 130, Packaging and Labeling Requirements, Section 6, Declaration of Quantity: Consumer Products

Source: Northeastern Weights and Measures Association (NEWMA)

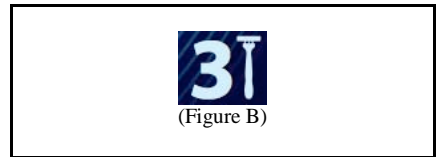
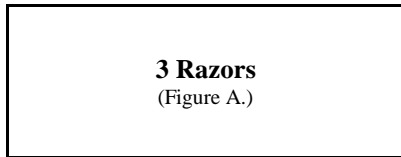
Purpose: To allow manufacturers to develop multi-lingual labels. This item would permit manufacturers to use approved symbols on consumer packages.

Item Under Consideration: Amend HB 130 Packaging and Labeling Regulations, Section 6: Declaration of Quantity: Consumer Packages, addition to 6.4.1. Combination Declaration:

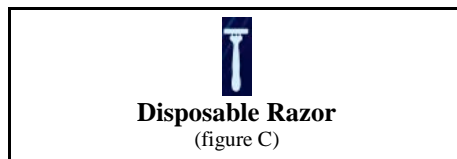
Numerical Count

Numerical count can be expressed as either:

- (a) **alpha-numeric characters (Figure A) or,**
- (b) **alpha-numeric characters in conjunction with an approved symbol of the commodity from Section 6.7.1 (Figure B).**



HB 130 Packaging and Labeling Regulations, Section 6: Declaration of Quantity: Consumer Packages amend Section 6.7.1., Symbols and Abbreviations (Figure C).



Background/Discussion: A representative of Procter and Gamble submitted a proposal at the 2009 NEWMA Interim Meeting. This proposal is to amend the language in HB 130 Packaging and Labeling Regulation, Section 6 that will facilitate value comparisons for a diverse set of U.S. consumers. It is proposed to amend the net content declaration of content for consumer products labeled by only by count to allow the use of approved symbols. This will limit the language of net content information, especially products with multi-language declarations, making the statement more noticeable to the eye. In addition, labels that are intended towards those consumers whose first language is not English will benefit from knowing the content visually versus by text. By ensuring the net content information is more noticeable; consumers will be more likely to make value comparisons.

Procter and Gamble cites 21CFR 201.15 (c)(2); this requirement formally applies to over the counter drug products but absent guidance for other categories of products subject to the Food Drug and Cosmetic Act (FD&C Act) and Food Packaging and Labeling Act (FPLA), this provides the best guidance principles for manufacturers to develop compliant multilingual labels. Net content translation and package size considerations can make a compliant statement difficult to understand.

Language extracted from 21 CFR 201.15:

(c)(1) All words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear thereon in the English language: *Provided, however,* that in the case of articles distributed solely in the Commonwealth of Puerto Rico or in a Territory where the predominant language is one other than English, the predominant language may be substituted for English.

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in the foreign language.

(3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear on the labeling in the foreign language.

At the 2009 NEWMA Interim Meeting, the L&R Committee recommended this proposal be a Developing item.

Joe Benavides, Texas, Chairman
Mr. Raymond Johnson, New Mexico
Ms. Jonelle Brent, Illinois
Mr. John Gaccione, Westchester County, New York
Mr. Terence McBride, Tennessee

Mr. Ron Hayes, Missouri, Chairman FALS

Mr. Doug Hutchinson, Canada, Technical Advisor
Mr. Rob L. Underwood, Associate Member Representative

Ms. Lisa Warfield, NIST Technical Advisor: e-mail: lisa.warfield@nist.gov
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Laws and Regulations Committee