

**95th Annual Meeting of the
National Conference on Weights and Measures**

**July 11 – 15, 2010
St. Paul, Minnesota**

**Addendum Sheets to the Interim Report of the
Laws and Regulations Committee**

Reference
Key Number

200 INTRODUCTION

The Committee on Laws and Regulations (hereinafter referred to as “Committee”) submits its Interim Report to the National Conference on Weights and Measures. The Report consists of the Interim Report offered in Publication 16, “NCWM Committee Reports,” and this Addendum. Page numbers in tables below refer to pages in Publication 16.

Presented below is a list of voting and information items. Voting items are indicated by the suffix **V** or, if the voting item is part of the Consent calendar, by the suffix **VC**. If the item is an Information item, it is indicated by the suffix **I**; if the item is Withdrawn, it is indicated by the suffix **W**. Items marked with a **D** after the key numbers are Developing items. The developing designation indicates an item has merit; however, the item is returned to the submitter for further development before any action at the national level. The Committee’s Final Report is proposed to be grouped in the following order:

Subject Series	
INTRODUCTION	200 Series
NIST Handbook 130 – General	210 Series
Uniform Laws	220 Series
Weights and Measures Law (WML)	221 Series
Weighmaster Law (WL)	222 Series
Engine Fuels and Automotive Lubricants Inspection Law (EFL)	223 Series
Uniform Regulations	230 Series
Packaging and Labeling Regulation (PLR)	231 Series
Method of Sale Regulation (MSR).....	232 Series
Unit Pricing Regulation (UPR)	233 Series
Voluntary Registration Regulation (VRR)	234 Series
Open Dating Regulation (ODR).....	235 Series
Uniform National Type Evaluation Regulation (UNTER).....	236 Series
Engine Fuels and Automotive Lubricants Regulation (EFR)	237 Series
Examination Procedure for Price Verification.....	240 Series
Interpretations and Guidelines	250 Series
NIST Handbook 133	260 Series
Other Items	270 Series

Voting Items

Separate vote (V) of the NCWM is being requested on the following items:

Reference Key Number	Title of Item	Publication 16 Page No.
232	METHOD OF SALE REGULATION	4
232-1	V Method of Sale for Fireplace and Stove Wood, Flavoring Chips, and Packaged Natural Wood (refer to Item 232-3 in the NCWM 2010 L&R Committee Interim Agenda)	4
232-2	V Pelletized Ice Cream (refer to Item 270-3 in the NCWM 2010 L&R Committee Interim Agenda) ...	4
232-3	V Method of Sale for Hydrogen (refer to Item 270-4 in the NCWM 2010 L&R Committee Interim Agenda)	4
232-6	V Method of Sale, Section 2.23. Animal Bedding (refer to Item 270-12 in the NCWM 2010 L&R Committee Interim Agenda)	5
260	NIST HANDBOOK 133.....	6
260-1	V Guidance on Allowing for Moisture Loss and Other Revisions.....	6
260-2	V Seed Count for Agricultural Seeds (refer to Item 270-5 in the NCWM 2010 L&R Committee Interim Agenda)	8
260-6	V National Pasta Association - HB 133, Moisture Allowance for Pasta Products (refer to Item 270-13 in the NCWM 2010 L&R Committee Interim Agenda).....	10

Withdrawn Items

The following items are withdrawn (W) and require no formal action of the NCWM:

Reference Key Number	Title of Item	Publication 16 Page No.
237	ENGINE FUELS AND AUTOMOTIVE LUBRICANTS REGULATION (EFT)	5
237-1	W Uniform Engine Fuels Regulation – Section 2.2.1 Premium Diesel Lubricity (refer to Item 270-1 in the NCWM 2010 L&R Committee Interim Agenda)	5
260	NIST HANDBOOK 133.....	6
260-4	W HB 133, Chapter 4.7. Polyethylene Sheeting Test Procedure – T-shirt/cut-out bags (refer to Item 270-8 in the NCWM 2010 L&R Committee Interim Agenda).. Error! Bookmark not defined.	
260-5	W HB 133, Method of Measurement of the Volume of Bagged Mulch (refer to Item 270-11 in the NCWM 2010 L&R Committee Interim Agenda)	Error! Bookmark not defined.

Information and Developing Items

The following items are information (I) or under development (D) and require no formal action of the NCWM:

Reference Key Number	Title of Item	Publication 16 Page No.
231	PACKAGING AND LABELING REGULATION (PLR)	4
231-1 D	HB 130, Packaging and Labeling Requirements, Section 6, Declaration of Quantity: Consumer Products (refer to Item 270-14 in NCWM 2010 L&R Committee Interim Agenda).....	4
232	METHOD OF SALE REGULATION	4
232-4 I	Method of Sale Regulation Section 2.13.4. "Declaration of Weight" (refer to Item 270-6 in the NCWM 2010 L&R Committee Interim Agenda)	4
232-5 I	Uniform Regulation for Method of Sale of Commodities - Packaged Printer Ink and Toner Cartridges (refer to Item 270-9 in the NCWM 2010 L&R Committee Interim Agenda)	5
237	ENGINE FUELS AND AUTOMOTIVE LUBRICANTS REGULATION (EFL)	5
237-2 I	Engine Fuel Quality Requirements for Hydrogen (refer to Item 270-4 in the NCWM 2010 L&R Committee Interim Agenda)	6
237-3 I	Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends (refer to Item 270-10 in the NCWM 2010 L&R Committee Interim Agenda).....	6
260	NIST HANDBOOK 133.....	6
260-3 I	HB 133, Chapter 4.7. Polyethylene Sheeting - Test Procedure - Footnote Step 3 (refer to Item 270-7 in the NCWM 2010 L&R Committee Interim Agenda).....	9
270	OTHER ITEMS – DEVELOPING ITEMS	10
270-1 D	Fuels and Lubricants Subcommittee (FALS) (refer to Item 270-2 in the NCWM 2010 L&R Committee Interim Agenda)	10

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

231 PACKAGING AND LABELING REGULATION (PLR)

- 231-1 D HB 130, Packaging and Labeling Requirements, Section 6, Declaration of Quantity: Consumer Products** (refer to Item 270-14 in NCWM 2010 L&R Committee Interim Agenda)

No Change.

There were no comments heard on this item during open hearings. The NIST Technical Advisor did inform the Conference that the Federal Trade Commission (FTC) was given a copy of this proposal. They are currently reviewing it for any conflict with federal regulations.

232 METHOD OF SALE REGULATION

- 232-1 V Method of Sale for Fireplace and Stove Wood, Flavoring Chips, and Packaged Natural Wood** (refer to Item 232-3 in the NCWM 2010 L&R Committee Interim Agenda)

No Change.

The Committee heard one comment of support for this item during open hearings from a County Director.

- 232-2 V Pelletized Ice Cream** (refer to Item 270-3 in the NCWM 2010 L&R Committee Interim Agenda)

No Change.

One speaker spoke in support of this proposal. Cary Frye from the International Ice Cream Association sent a request to FDA to include pelletized frozen desserts. To date, FDA has not responded with an official position on the IICA letter dated May 14, 2010.

Ms. Frye informed the conference that Kemp's had requested an extension from FDA for the labeling requirement for pelletized ice cream. This labeling extension was granted to Kemp's until April 17, 2011. A State Director asked that the extension letter be made available to the States. The NIST Technical Advisor will place a copy of the FDA letter on record and send out on the NIST WMD State Director List Server.

- 232-3 V Method of Sale for Hydrogen** (refer to Item 270-4 in the NCWM 2010 L&R Committee Interim Agenda)

No Change.

During open hearings the Committee heard several comments in support of this proposal. In addition, the Committee received five letters in support of this item.

- 232-4 I Method of Sale Regulation Section 2.13.4. "Declaration of Weight"** (refer to Item 270-6 in the NCWM 2010 L&R Committee Interim Agenda)

The Committee recommendation is to move this item from Voting to Informational status.

During the open hearing, the Committee heard from Berry Plastics who opposed this item. Berry Plastics stated that if products are labeled HD and required to meet a 0.95 density factor, it will require manufacturers to overstate the weight of their product.

There were several comments made from State and County Directors on this item. It was noted several times that manufacturers need to declare the density for the product.

Moving this to an Informational item will allow time to receive additional information and data from manufacturers of polyethylene. The Committee also believes that additional work needs to be done on the labeling requirements of polyethylene. This may include requiring a mandatory statement and review of the current ASTM standards.

232-5 I Uniform Regulation for Method of Sale of Commodities - Packaged Printer Ink and Toner Cartridges (refer to Item 270-9 in the NCWM 2010 L&R Committee Interim Agenda)

No Change

A presentation was given by Steve Pociask of The American Consumer Institute (ACI) regarding the true cost associated with purchasing a printer and ink cartridges over the life of the printer. Weights and Measures officials are concerned that consumers need to get what they are paying for. There also needs to be a procedure to test for net quantity. Over the years ink and toner packages had a net weight statement and in recent years the net weight statement from some packaging has been removed and replaced with a page count. There are ISO/IEC standards that manufacturers use for page count verification. Another part of this industry that needs to be included are ink cartridge refillers.

Josh Rosenberg, ITI Industry Council, expressed that page count is relevant to what consumers need in making a purchase.

A work group was formed by the NCWM. Vicky Dempsey, Montgomery County, Ohio, will be the Chairperson on the Packaged Printer Ink and Toner Cartridge Committee. The WG met briefly on Monday, July 12, 2010, to announce the plans of the work group and to seek out participants. Lisa Warfield will be the NIST Technical Representative.

232-6 V Method of Sale, Section 2.23. Animal Bedding (refer to Item 270-12 in the NCWM 2010 L&R Committee Interim Agenda)

No Change

The Committee received numerous letters regarding this item. The Committee agrees that the language in the exemption is only for non-consumer packages sold to the laboratory animal research industry. Currently the practice of selling by weight to research institutes and federal agencies is a practice in use by this industry. The exemption allows manufacturers to follow an official method of sale.

There were two presentations made during the open hearings. The first presentation given by Jerry Reynolds, The Andersons, reflected opposition on the proposal. The second given by Terry Burns-Heffner, Harlan Laboratories, was in favor of the item under consideration.

237 ENGINE FUELS AND AUTOMOTIVE LUBRICANTS REGULATION (EFT)

237-1 W Uniform Engine Fuels Regulation – Section 2.2.1 Premium Diesel Lubricity (refer to Item 270-1 in the NCWM 2010 L&R Committee Interim Agenda)

The Committee recommends changing the status of this item from Informational to a Withdrawn item.

This Committee's recommendation was based on the 2010 annual report from the Central Weights and Measures Association. A FALS member stated that this item is not ready and should be resubmitted at the appropriate time when more information is available.

237-2 I Engine Fuel Quality Requirements for Hydrogen (refer to Item 270-4 in the NCWM 2010 L&R Committee Interim Agenda)

No Change

Randy Jennings informed that Committee that Society of Automobile Engineers (SAE) is actively working on a hydrogen specification ASTM D03 is actively working on the test methods. The USNWG on hydrogen will keep the Committee updated.

237-3 I Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends (refer to Item 270-10 in the NCWM 2010 L&R Committee Interim Agenda)

No Change

The Committee heard numerous comments during open hearings concerning this proposal. Additional work needs to be done on this item. There is lack of consensus among industry stakeholders whether the exact percentage of biodiesel (5 % or below) should be required on product transfer documents. Some states already require the exact volume percentage of biodiesel be disclosed on product transfer documents. A concern was expressed that without this requirement there would be no way of knowing whether states will be meeting their mandates. This information is also needed for tax purposes. The FTC fuel rating rule does not require disclosure on product transfer documents for diesel fuel containing 5 % or less biodiesel. A comment was made that this proposal should be expanded to include other fuel additives.

This item is being referred to the FALS Committee for further development.

260 NIST HANDBOOK 133

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

The Committee recommendation is to adopt as revised below. Line item numbers are how they appear in Pub. 16 Appendix F.

- Line Item 8. First Paragraph – move the parenthesis to enclose the title of the Section. To apply a moisture allowance before determining package errors, adjust the Nominal Gross Weight (see Section 2.3. “Basic Test Procedure”) – Determine Nominal Gross Weight and Package Errors for Tare Sample) so the package errors are increased by an amount equal to the moisture allowance.
- Line Item 8 – Second Paragraph third sentence:
You may apply ~~an~~ a moisture allowance after determining the package errors by ~~an amount equal to the moisture~~ adding the allowance to adjust the average error adding the allowance to the SEL and then, comparing the average error to the SEL to determine compliance. The moisture allowance must also be added to the MAV before evaluating sample errors to identify unreasonable minus errors, and then reevaluating sample compliance.
- Line Item 22. replace current language with:
When no predetermined allowance is found in HB133, the potential for moisture loss must be considered.
Inspectors should follow their jurisdiction’s guidance for making their determination on an acceptable moisture allowance.
- Line Item 24 – replace with:
Table 2-3. Moisture Allowances

- Line Item 25 replace first paragraph

Wet tare procedures must not be used to verify the labeled net weight of packages of meat and poultry packed at an official United States Department of Agriculture facility and bearing a USDA seal of inspection. The Food Safety and Inspection Service (FSIS) adopted specific sections of the 2005 4th Edition of NIST HB 133 by reference but not the “wet tare” method for determining net weight compliance. FSIS considers the free-flowing liquids in packages of meat and poultry products, including single-ingredient, raw poultry products, to be integral components of these products (see Federal Register, September 9, 2008 [Volume 73, Number 175] [Final Rule – pages 52189-52193]).

- Line Item 41 amend to read as follows:

For ~~ice~~ glazed seafood, ~~meat, poultry or similar products and fish~~, determine the net weight after removing the glaze using the following procedure. Use this method for any ~~frozen-ice~~ glazed food product.

- Line Item 43 amend Step 1 to read as:

Add in the following language: Take out step 1 and replace with the following language.

Use an official inspection report to record the inspection information. Attach additional worksheets, test notes, and other information as needed. This handbook provides an ice glazed seafood worksheet and package report form in Appendix E. Modify the worksheet, package report and the box numbers to meet your agency's needs. Other formats that contain more or less information may be acceptable.

- Line item 44:

Petroleum ~~15~~ 15.6 °C (60 °F)

- Line item 54: Replace figure 3-1 and replace with a pictograph of a frozen novelty or similar item on a stick.
- Line item 57:
Put back into HB133 the figure of the stacking pattern of logs and bundle firewood that is in the HB 133 (third edition.)
- Line item 67, 68, 69 and 70 add the word “**Ice**” as the first word in the title of the Seafood worksheets and reports.
- Editorial Item:
Place the conversion charts located in HB44, Appendix C into an Appendix in HB133.

260-2 V Seed Count for Agricultural Seeds (refer to Item 270-5 in the NCWM 2010 L&R Committee Interim Agenda)

The Committee recommends this as a Voting Item as revised below.

The information regarding the AOSA standard for mechanical seed count was in a letter from ASTA in Appendix H. The Committee reviewed the AOSA standard along with the spring Regional reports and revised the item below with corrections that were received at the CWMA meeting.

The numbering system for this item will change to format properly within HB133, when it is reviewed by the NIST Publications Coordinator.

There was concern from the floor that the item did not appear as a complete item on the agenda. However, when reading the language of the item, it directs you to the appropriate appendix to review the AOSA method.

SECTION 12: MECHANICAL SEED COUNT

The following method shall be employed when using a mechanical seed counter to determine the number of seeds contained in a sample of soybean (*Glycine max*), corn (*Zea mays*), wheat (*Triticum aestivum*) and field bean (*Phaseolus vulgaris*).

12.1 Samples.

Samples for testing shall be of at least 500 grams for soybean, corn and field beans and 100 grams for wheat and received in moisture proof containers. Samples shall be retained in moisture proof containers until the weight of the sample prepared for purity analysis is recorded.

12.2 Seed counter calibration.

The seed counter shall be calibrated daily prior to use.

(a) Prepare a calibration sample by counting 10 sets of 100 seeds. Visually examine each set to insure that it contains whole seeds. Combine the 10 sets of seeds to make a 1,000 seed calibration sample. The seeds of the calibration sample should be approximately the same size and shape as the seeds in a sample being tested. If the seeds in a sample being tested are noticeably different in size or shape from those in the calibration sample, prepare another calibration sample with seeds of the appropriate size and shape. Periodically re-examine the calibration samples to insure that no seeds have been lost or added.

(b) Carefully pour the 1,000 seed calibration sample into the seed counter. Start the counter and run it until all the seeds have been counted. The seeds should not touch as they run through the counter. Record the number of seeds as displayed on the counter read out. The seed count should not vary more than ± 2 seeds from 1,000. If the count is not within this tolerance, clean the mirrors, adjust the feed rate and/or reading sensitivity. Rerun the calibration sample until it is within the ± 2 seed tolerance. If the seed counter continues to fail the calibration procedure and the calibration sample

has been checked to ensure that it contains 1,000 seeds, do not use the counter until it has been repaired.

12.3 Sample preparation.

Immediately after opening the moisture proof container, mix and divide the submitted sample to obtain a sample for purity analysis and record the weight of this sample in grams to the appropriate number of decimal places. Conduct the purity analysis to obtain pure seed for the seed count test.

12.4 Conducting the test.

After the seed counter has been calibrated, test the pure seed portion from the purity test and record the number of seeds in the sample.

12.5 Calculation of results.

Calculate the number of seeds per pound to the nearest whole number using the following formula:

Number of seeds per pound = 453.6 g/lb × no. of seeds counted divided by the weight (g) of sample analyzed for purity

12.6. Tolerances Maximum Allowable Variations

Multiply the labeled seed count 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 maximum allowable variation (the number of seeds) to the nearest whole number. Consider the results of two tests in accord with the maximum allowable variation if the difference, expressed as the number of seeds, is equal to or less than the maximum allowable variation.

Example:

Kind of seed: Corn

Label claim: 2275 seeds/lb.

Lab Test: Purity working weight = 500.3 g

Seed count of pure seed = 2479 seeds

Number of seeds per pound = 453.6 g/lb × 2479 seeds = 2247.6 seeds/lb divided by 500.3 g
Rounded to the nearest whole number = 2248 seeds/lb

Calculate maximum allowable variation value for corn:

multiply label claim by 2 %

2275 seeds/lb × 0.02 = 45.5 seeds/lb;

rounded to the nearest whole number = 46 seeds/lb

Determine the difference between label claim and lab test:

2275 seeds/lb – 2248 seeds/lb = 27 seeds/lb

The difference between the lab test and the label claim is less than the maximum allowable variation (27 < 46); therefore, the two results are in accord with the maximum allowable variation.

260-3 I HB 133, Chapter 4.7. Polyethylene Sheeting - Test Procedure - Footnote Step 3 (refer to Item 270-7 in the NCWM 2010 L&R Committee Interim Agenda).

The Committee recommendation is to move this item from Voting to Informational status.

During the open hearing, the Committee heard from Berry Plastics who opposed this item. Berry Plastics stated if products are labeled HD and required to meet a 0.95 density, it will require manufacturers to overstate the weight of their product.

There were several comments made from State and County Directors on this item. They are in agreement that the role of the Conference is not to determine quality issues but rather to set testing standards for inspectors. It was noted several times that the manufacturers need to declare the density for the product.

Moving this to an Informational item will allow time to receive additional information and data from manufacturers of polyethylene. The Committee also believes that additional work needs to be done on the labeling requirements of polyethylene. This may include requiring a mandatory statement and review of the current ASTM standards.

260-6 V National Pasta Association - HB 133, Moisture Allowance for Pasta Products (refer to Item 270-13 in the NCWM 2010 L&R Committee Interim Agenda)

No Change

During the open hearings the Committee heard numerous comments in favor of this proposal. One state Director opposes this item.

270 OTHER ITEMS – DEVELOPING ITEMS

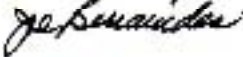
270-1 D Fuels and Lubricants Subcommittee (FALS) (refer to Item 270-2 in the NCWM 2010 L&R Committee Interim Agenda)

No Change.

Seafood Forum / Discussion

A Seafood forum was held on Sunday July 11, 2010, with 40 Industry and regulatory officials in attendance. The forum reviewed the multi-state ice glazed seafood investigation. Judy Cardin, Chairperson, provided updated information regarding this issue.

For more information regarding this item, contact Judy Cardin at judy.cardin@wisconsin.gov.

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

Mr. Ron Hayes, Missouri, Chairman FALS

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

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Laws and Regulations Committee