Laws and Regulations Committee
Interim Report

Joe Benavides, Chairman
Austin, Texas

Reference
Key Number

200 INTRODUCTION

The Committee on Laws and Regulations (hereinafter referred to as the "Committee") submits its Interim Report for consideration by the National Conference on Weights and Measures (NCWM). This report contains the items discussed and actions proposed by the Committee during its Interim Meeting in Nashville, Tennessee, January 24 - 27, 2010.

Table A identifies the agenda items in the Report by reference key number, item title, and page number. The item numbers are those assigned in the Interim Meeting agenda. A voting item is indicated with a "**V**" after the item number. An item marked with an "**I**" after the reference key number is an information item. An item marked with a "**D**" after the key number is a developing item. The developing designation indicates an item has merit; however, the item is returned to the submitter for further development before any action can be taken at the national level. An item marked with a "**W**" was withdrawn by the Committee. An item marked with a "**W**" generally will be referred to the regional Weights and Measures associations because it either needs additional development, analysis, and input or does not have sufficient Committee support to bring it before the NCWM.

This agenda contains recommendations to amend National Institute of Standards and Technology (NIST) Handbook 130, "Uniform Laws and Regulations," (2009), and NIST Handbook 133, "Checking the Net Contents of Packaged Goods," (2005) 4th Edition. Revisions proposed for the handbooks are shown in **bold face print** by ~~**crossing 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 some references in the text; however, in most cases section is spelled out and is then followed by the section number and title, (for example, Section 1.2. Weight). When used in this report, the term "weight" means "mass."

Note: The policy of NIST is to use the International System of Units (SI) in all of its publications; however, recommendations received by the NCWM technical committees have been printed in this publication as they were submitted and, therefore, may contain reference to inch-pound units.

Subject Series

Table A
Index to Reference Key Items

Table B
Appendices

Table C
Glossary of Acronyms and Terms

Acronym	Term	Acronym	Term
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, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*	USNWG	U.S. National Work Group
HB 130	NIST Handbook 130, *Uniform Laws and Regulations in the areas of Legal Metrology and Engine Fuel Quality*	Weights	Mass
HB 133	NIST Handbook 133, *Checking the Net Content of Packaged Goods*	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)

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)

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).

3 Razors
(Figure A.)


(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).


Disposable Razor
(figure C)

Background/Discussion: A representative of Procter and Gamble (P&G) submitted a proposal at the 2009 NEWMA Interim Meeting held in Springfield, Massachusetts. 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 consumers. It is proposed to amend the net content declaration of content for consumer products labeled only with a count to allow for the use of approved symbols. According to P&G, 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 consumers whose first language is not English will benefit from knowing the content visually versus by text. P&G states that by ensuring the net content information is more noticeable; consumers will be more likely to make value comparisons.

P&G 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. P&G states that 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.

At the 2010 NCWM Interim Meeting, Mr. Chris Guay (P&G) provided explanation that in Europe products sold by count are using pictograms in the net content declaration and the package could be considered multi-language. This system would allow for industry to develop one package that can be used in several different countries without having to develop packaging for one specific language. A California official urged that this be a Developing item to see if pictograms could be acceptable.

The Committee would like to see this item go through all the regions (NEWMA, CWMA, WWMA, and SWMA) for review and comment. The Committee requested from Mr. Guay an approved set of international pictograms and further information on the labeling requirements (FPLA). The NIST Technical Advisor will also research to review any conflicts with other Federal Laws and Regulations. The NIST Technical Advisor met with the Federal Trade Commission on February 26, 2010, to seek their assistance in reviewing this proposal. The L&R Committee agreed that this should be a Developing Item.

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)

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

Purpose: The purpose of this proposal is to clarify the requirement for the display of metric units. 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.

In Method of Sale Regulation, HB 130, 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 would also create a conflict.

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:

(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**.

(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:**

(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)**

Background/Discussion: A state cited a company for a violation of the jurisdictions net quantity contents labeling for flavoring chips. The citation also led this to initiate 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 metric volume unit to be used. 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, which contains 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.

Proposal initially submitted in 2008.

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 ~~feet~~ **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 ($\frac{1}{8}$ 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)

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 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 changed 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 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:

(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:

(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**.

(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 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 201X)**

At the 2009 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 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 with the Western recommendations.

At the 2010 NCWM Interim Meeting, the Committee agreed to move forward the WWMA recommendation. There were no comments heard on this item during the open hearings. The Committee agreed to move the item under consideration forward as a Voting item.

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

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 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).

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 NCWM 2010 Interim 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. A 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 IDFA/IICA in a letter dated October 22, 2009, denying their request to change the label compliance date to January 2, 2012 (refer to L&R Appendix E in the NCWM 2010 Interim Agenda). 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 recommended to the Committee that the proposed item move forward as a Voting item.

At the 2010 NCWM Interim Meeting open hearings, Ms. Cary Frye, Vice President, Regulatory & Scientific Affairs from the IICA, informed attendees that she is requesting clarification from FDA regarding the classification for "ice" products and frozen desserts to also be exempted.

The Committee recommends the item under consideration be moved forward as a Voting item and will take into consideration at the NCWM National meeting to be held in St. Paul, Minnesota, in July 2010, any information that may be submitted from FDA on Ms. Frye's issue.

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

Source: Western Weights and Measures Association (WWMA)

Purpose: Adopt a method of sale 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 for inclusion in HB 130 Uniform Regulations for Method of Sale of Commodities.

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.

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

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)~~ (expressed in megapascals) at which the dispenser(s) delivers hydrogen fuel (e.g., H35 or H70$_{~~MPa~~}$).

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). In April 2009 at the U.S. National Hydrogen Work Group (WG) meeting held in Sacramento, California, the WG further clarified the definition for street sign prices to specify that the megapascal is the appropriate SI unit for expressing the numerical value of the dispenser's service pressure on street signs.

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

At the WWMA 2009 Annual Meeting held in Los Cruces, New Mexico, 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 held in Clearwater, Florida, the SWMA L&R Committee heard a recommendation from a state that as the test methods are developed they get published. 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.

At the NEWMA 2009 Interim Meeting held in Springfield, Massachusetts, the Committee reviewed this proposal and recommends this as a Developing item.

During the open hearings at the 2010 Interim Meeting, a State Official spoke in support of this item to move forward as a Voting item so that there is a method of sale for the commercialization of hydrogen. The Committee agreed

that the method of sale go forward as a Voting item. The Committee indicated that the test methods were not developed enough to move the fuel quality specification portion forward. The Hydrogen Fuel Quality Specification section will remain as Informational (refer to Item 237-2).

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.

232-4 V 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)

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 of weight for polyethylene sheeting and film products under Section 2.13.1.1. Sheeting and film, and 2.13.3.1. Bags, shall be equal to or greater than the weight calculated by using the formula below. The final value shall be calculated to four digits, and declared to three digits, dropping the final digit as calculated (for example, if the calculated value is 2.078 lb, then the declared net weight shall be 2.07 lb).

For SI dimensions:

M = T x A x D/1000, where:

M = net mass in kilograms
T = nominal thickness in centimeters
A = nominal length in centimeters times nominal width [***NOTE 6***, page 122] in centimeters
D = density in grams per cubic centimeter as determined by ASTM Standard D1505 68, Standard Method of Test for Density of Plastics by the Density Gradient Technique (or latest issue)

For the purpose of this regulation, **when D is not known,** the minimum density **(D) used to calculate the target net weight for linear low polyethylene products (LLPD) and products other than high density (HDPE)** shall be 0.92 g/cm^3 ~~**(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/cm^3.

For inch-pound dimensions:

W = T x A x 0.03613 x D, where:

W = net weight in pounds;
T = nominal thickness in inches;
A = nominal length in inches times nominal width [***NOTE 6***, page 122] in inches;
D = density in grams per cubic centimeter as determined by ASTM Standard D1505 68, Standard Method of Test for Density of Plastics by the Density Gradient Technique (or latest issue); and 0.03613 is a factor for converting g/cm^3 to lb/in^3.

~~**For the purpose of this regulation, the minimum density shall be 0.92 g/cm^3.**~~

(Added 1977) (Amended 1980, 1982, 1987, 1989, 1990, 1993, and 201X)

NOTE 6: *The nominal width for bags in this calculation is twice the labeled width.*

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 than 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 HB 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 the following item and recommends that it be a Voting item:

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.**

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

The Committee heard support for the density factor changing from 0.92 g/cm³ to 0.95 g/cm³ on this item. A California county commissioner indicated that the information provided by the WWMA was data extracted from Internet searches. Manufacturers are complaining that under current practice they cannot compete fairly.

Mr. Mike Jackelen from Berry Plastics urges the Committee to reject this proposal. Mr. Jackelen stated that 0.92g/cm³ density currently works for manufacturers and that changing it to 0.95 g/cm³ will cause undue cost and waste. Most manufacturers do not make high density (HD) bags, but are producing blends. According to Mr. Jackelen, another reason to reject the proposal is if the 0.95 g/cm³ bag is punctured, it continues to tear.

A New York State official stated that if you use the term HD, then you are bound by the 0.95 g/cm³. If you use the length x width x thickness to determine the net weight, then it needs to be added on the package labeling. A California official stated that manufacturers should consider disclosing the density factor on every product as part of the labeling. It was voiced that if there are questions about an absolute 0.95 g/cm³ density, then there should be an alternate.

The California official stated that the 0.95 g/cm³ will be factored in only when the density is not known. The Committee received letters that were reviewed on this item. The Committee recommends moving the item under consideration forward as a Voting item.

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)

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 201X)

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 pointed out that according to guidelines printed in HB 130 from the Weights and Measures Law, Section 19 "information required on packages," these products are required to have the net contents of the ink (and toner) labeled, but manufacturers have resisted, claiming an exemption under the FPLA. 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 Mr. Max Gray, Director of Florida Agriculture and Consumer Services, 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 believes this issue does need to be discussed and reviewed further. However, many officials believe that consumers should know what they are getting. If it is determined that page count is the quantity statement, then the page print standard should be reviewed and have tighter standards.

Mr. Gray felt 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.

At the 2010 Interim Meeting held in Nashville, Tennessee, the Committee heard testimony from Mr. Matthew Barkley (Hewlett Packard) regarding how the FPLA creates an exemption for ink which extends to toner and ink cartridges. A declaration of weight and volume are not the best way for consumer to make valued comparisons. Customers benefit from page count/yield. Mr. Barkely urges that this issue be withdrawn. If this issue is to proceed, it should be Informational and a review of the FPLA exemption needs to be reviewed. Page yield is widely accepted and has repeatability measures.

Mr. Paul Jeran (Hewlett Packard) submitted a white paper (refer to Appendix C) from the Information Technology Industry Council (ITI). This white paper included manufacturers from Epson, Hewlett Packard, Kodak, and Lexmark. Mr. Jeran explained that his background is with ink and toner measurement. For the same volume of ink, two different systems of the same model cartridge from two different vendors can print a different number of pages. In order to determine the page yield, they are using the ISO/IEC methodology. ISO is currently working on a photo yield standard.

A Florida State official expressed concerns with page yield being the standard page print for quantity. There is variation based on the type of cartridge, printer, and font and if graphics/photos are being printed. There is also a concern with what ink cartridge refillers are doing. The Florida official reviewed the current practice of refillers, and they are listing on the labels the amount of ink. There are many manufactured packages in the marketplace, so value comparison to original equipment manufacturer (OEM) is critical. This is an expensive commodity and clarifications of the requirements are needed. The Florida State official recommended that this item not be withdrawn but made Informational so additional information can be researched on this item. It is firmly believed that there needs to be a consistency with the declaration statement on these types of items. A consumer stated that he believes the net content needs to be stated with voluntary supplemental information for page yield. Some voiced their opinion that consumers need to know page yield in order to make a value comparison. The NIST Technical Advisor stated that under the FTC regulations ink and toner cartridges were not part of the CFR (refer to Appendix C for background information). NIST met with the Federal Trade Commission on February 26, 2010, to request clarification of the exemption. According to the Committee, there needs to be a test procedure for verification of net content developed for ink and toner cartridges.

The Committee recommends that this item be made Informational until they can receive clarification from FTC, review ISO standards, and determine what refillers' current practices are.

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)

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, to include an exemption for non-consumer packages sold to laboratory animal research industry.

Section 2.23.

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 in^3 expands to 1000 in^3).

(Added 1990)

2.23.1. Exemption – Non Consumer Packages Sold to Laboratory Animal Research Industry

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, medical, university, preclinical, pharmaceutical, research, biotech and research institutions) ~~shall~~ may be sold on the basis of weight.

(Added 201X)

HB 130, Interpretations and Guidelines – Amend this section as follows:

~~**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, Mr. 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.

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 in^3 expands to 1000 in^3).

(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 201X)

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.**~~

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 of 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.

At the 2010 NCWM Interim Meeting, the Committee received written notification (refer Appendix D) from industry reflecting their support on this item. During the open hearings, there were several representatives from industry who spoke on behalf of this. This item currently represents the current method of sale practice in the marketplace and, in addition, they are requesting an 8 % or less moisture loss. The 8 % moisture allowance originates from the National Institute of Health (NIH). A California official stated that if weight is important, then both weight and volume should be declared. The Government requires animal bedding to be sold on a weight basis. The NIST Technical Advisor will provide language to capture both methods of sale for the exemption. The Committee recommends the item under consideration be moved forward as a Voting item

237 ENGINE FUELS AND AUTOMOTIVE LUBRICANTS REGULATION (EFT)

237-1 I 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)

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 a 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 Chairman 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 held in Rock Island, Illinois, the FALS Chairman, Mr. 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 in Los Cruces, New Mexico, SWMA Annual in Clearwater, Florida, and the NEWMA Interim Meeting held in Springfield, Massachusetts there were no comments heard and these regions recommended that this proposal remain a Developing item.

At the 2010 Interim Meeting the FALS Chairman provided an update that the ASTM ballot items failed in June 2009. They are working on improving the test method and this continues to be an on-going process.

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

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

Source: Western Weights and Measures Association (WWMA)

Purpose: Adopt 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.

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 energy conversion device ~~used to convert hydrogen and oxygen into electrical~~ in which fuel and an oxidant react to generate energy without consumption of its electrodes or electrolytes ~~to power a motor vehicle~~.

(Added 201X)

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

(Added 201X)

1.XX. Internal Combustion Engine. – a device used to ~~ignite hydrogen in a confined space to create mechanical~~ generate power by converting chemical energy bound in the fuel into mechanical work to power a ~~motor~~ vehicle.

(Added 201X)

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 (test methods) 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.

In April 2009, the U.S. National Hydrogen Work Group meeting held in Sacramento, California, they further refined the definitions for hydrogen vehicle fuel based on input from SAE International. The definitions were modified to include more technically correct language and the text is in alignment with the widely recognized "Bosch Automotive Handbook." In January 2010, a column was added to Table 1 to reflect the responsible standards committee and the status of the test method.

Table 1. Hydrogen Fuel Quality Specification*						
	Property	**Value**	**Unit**	**Limit**	**Test Method(s)**	**Responsible Stds. Committee and Status of test method**
1	Ammonia	0.1	ppm v/v	Maximum	to be specified	WK 10196 under ASTM D03.14
2	Carbon Dioxide	2.0	ppm v/v	Maximum	to be specified	Wk 10196 and WK 4548 under ASTM D03.14
3	Carbon Monoxide	0.2	ppm v/v	Maximum	to be specified	WK 10196 under ASTM D03.14
4	Formaldehyde	0.01	ppm v/v	Maximum	to be specified	WK 10196 under ASTM D03.14
5	Formic Acid	0.2	ppm v/v	Maximum	ASTM D7550-09	WK 10196 under ASTM D03.14
6	Helium	300.0	ppm v/v	Maximum	to be specified	ASTM D03.14
7	Hydrogen Fuel Index	99.97	% (a)	Minimum	to be specified	
8	Nitrogen and Argon	100.0	ppm v/v	Maximum	to be specified	WK 4548 under ASTM D03.14
9	Oxygen	5.0	ppm v/v	Maximum	to be specified	WK 4548 under ASTM D03.14
10	Particulate Concentration	1.0	mg/kg	Maximum	to be specified	WK 9688 and WK 21611 under ASTM D03.14
11	Total Allowable Non-Hydrogen, Non-Helium, Non-Particulate constituents	100.0	ppm v/v	Maximum	to be specified	
12	Total Non-Hydrogen Gases	300.0	ppm v/v (b)	Maximum	to be specified	
13	Total Halogenated Compounds	0.05	ppm v/v	Maximum	to be specified	WK 23815 under ASTM D03.14
14	Total Hydrocarbons	2.0	ppm v/v (c)	Maximum	to be specified	WK 22378 under ASTM D03.14
15	Total Sulfur Compounds	0.004	ppm v/v	Maximum	to be specified	WK 24073 under ASTM D03.14
16	Water	5.0	ppm v/v	Maximum	to be specified	WK 10196 and WK 4548 under ASTM D03.14

Footnotes to Table 1 –

a. Hydrogen fuel index is the value obtained with the value of total gases (%) subtracted from 100 %.
b. Total Gases = Sum of all impurities listed on the table except particulates.
c. 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 http://www.ftc.gov/bcp/edu/pubs/business/autos/bus29.shtm requires dispensers to bear an 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)

Updated 1/20/2010

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 held in Los Cruces, New Mexico, 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 published. They also requested that documentation be produced on the effects 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.

At the NCWM 2010 Interim Meeting, the NIST Technical Advisor provided an updated Table 1. – Hydrogen Fuel Quality Specification (refer to L&R Appendix B in this report) that amends the chart to identify which Standards Committee is actively working on the test method under development.

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.

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)

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**~~**b**iodiesel ~~**B**~~**b**lends 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 that 6 mm (¼ in) in height by 0.8 mm ($^{1}/_{32}$ in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.

3.15.3. Documentation ~~for Dispenser Labeling Purposes~~ Required on Transfer Documents. – ~~The retailer shall be provided, a~~At the time of delivery of the fuel, a declaration of the volume percent biodiesel **shall be disclosed on all transfer documents. ~~on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; i~~**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.

(a) 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.

(b) Diesel fuel containing less than 1 % by volume biodiesel is exempted from the requirement of 3.15.3

(c) Diesel fuel containing 1 % and not more than 5 % by volume biodiesel fuel is exempt from disclosing the actual percent by volume of biodiesel as required in Section 3.15.3. However, the term "Contains Biodiesel" or other similar terms shall be used.

(Added 2005) (Amended 2008 **and 201X**)

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 Mr. 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

Chairman vet the proposal out to all members of the FALS Committee for their comments before the NCWM Interim meeting in January 2010.

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**~~**b**iodiesel ~~**B**~~**b**lends 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 that 6 mm (¼ in) in height by 0.8 mm ($^{1}/_{32}$ in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.

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**)

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

At the 2010 NCWM Interim Meeting, Mr. Ron Hayes, FALS Chairman, gave an update on the subcommittee's work to remove the current exemption for biodiesel disclosure in diesel fuel at 5 % and below on product transfer documents.

A draft substitute was circulated among FALS members prior to the interim meeting. This substitute expanded the disclosure of biodiesel content on all transfer documents (not limited to ones to the retailer) and for levels greater than 1 % biodiesel. The substitute was an attempt to find middle ground. FALS members were more agreeable to this substitute but many still felt more work is needed.

The L&R and FALS Committee received seven letters (refer to Appendix E) that does not support this proposal. The Committee does support working on this issue and receiving feedback from industry. There is great concern with the documentation and comingling of fuels. If fuel is comingled, it would need to be sampled every time, which could be quite costly.

A New York official would like to see this item move forward as a Voting item. This Official would like the spring Regional meetings (NEWMA and CWMA) to review and further develop the language. API stated there are many things to consider, such as preemption language, cost implications, commercial issue of declaring with each transaction. API has worked with marketers but there continues to be a difference of opinion and no consensus. It was voiced by industry that all biodiesel needs to be documented on the paperwork. If not, it puts the wholesaler, retailer and consumer at risk. There was a comment from a stakeholder that they do not agree with API's comment and that this has been a two year battle on who gets to do the blending. Blenders are over-blending because they are not aware of what the current blend is. To prevent this situation, it would require disclosure on the transfer document.

The FALS will review all comments and continue to work on this item. They will make a recommendation to the National L&R Committee. The Committee recommends that this item remain Informational.

260 NIST HANDBOOK 133

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

Source: Moisture Loss Work Group (MLWG).

Purpose: Revise and update the 4th Edition of NIST 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 F, Proposed Amendments and Editorial Changes. A working draft document of HB 133 is presented in Appendix G, HB 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 HB 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 HB 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 officials 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 packages 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 official 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.

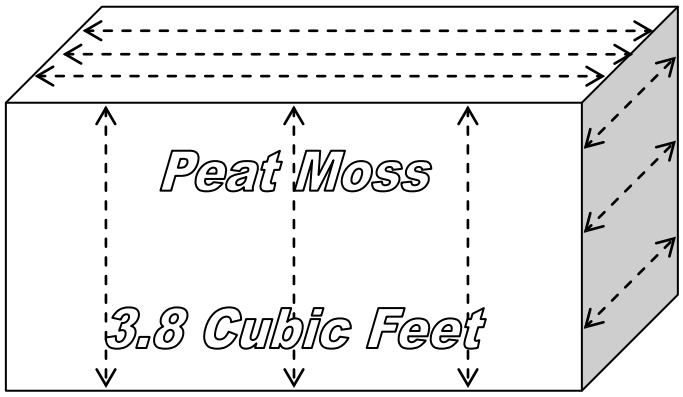
- Line item 29, Section 2.3.8.d. "What moisture allowance is used with wet tare when testing packages bearing a USDA seal of inspection?" should read as: When there is free-flowing liquid **and liquid** ~~or absorbent~~ **absorbed by** packing materials in contact with the products, all free liquid **and 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:**

    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 official 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.

At the NCWM 2010 Interim Meeting held in Nashville, Tennessee, the Moisture Loss Work Group met on Sunday, January 24, 2010, to review the line item changes located in Appendix A, Table of Proposed Amendments and Editorial Changes for HB 133, *Checking the Net Contents of Packaged Goods* (refer to NCWM 2010 Interim L&R Agenda). Participants in the meeting provided and discussed their input into each line item to the L&R Committee.

During the open hearings, a State official recommended that this item under consideration be moved forward as a Voting item. Comments were heard on the following line items (refer to Appendix A from the NCWM 2010 Interim L&R Agenda) during the open hearings:

- Line item 3, Section 1.1.a.(3) – Amend sentence 7. **If the weights and measures jurisdiction conducting the inspection does not have access to other retail locations, wholesalers or point of pack location(s) then the weights and measures authorities having jurisdiction in those locations should be contacted and asked to conduct an inspection at those locations to determine the cause of the findings.**
    - Chris Guay, Procter and Gamble, recommends that the word "should be replaced with ". **locations ~~should~~ it is recommended that they be contacted and asked to conduct".**

- Line item: Section 1.2.(5).a – For loss or gain of moisture**, ~~apply~~** the moisture allowances **may be applied before or after the package errors are determined**.
    - Two State officials recommend that there are currently two methods of computation. They both encourage that one method be selected and they prefer for moisture loss only be applied after.

- Line item 25: Section 2.3.8(b).
    - A California State official recommends for USDA inspection for wet tare only that the language read "packed and labeled" at a USDA facility.

- Line item 31-33: Section 2.3.8.e "How is moisture loss handled for products not listed in HB133"
    - L&R Chairman stated that these items will be removed for consideration and returned to the Moisture Loss Work Group (MLWG) for further development and clarification.

- Line item 65: 3.12. – Ice Cream Novelties
    - Cary Frye, VP Reg. and Scientific Affairs from the International Dairy Ice Cream Association supports the change to the pelletized ice cream. She is working with FDA to get clarification for ice pelletized products (non-dairy) (refer to 232-2 of this report)

- Line item 10a: 3.11.b. – Specifications for Test Measures for Mulch and Soils.
    - Bob LaGasse, Mulch and Soil Council spoke regarding the editorial change that left out the 12 x 12 x 24 measure.

The NIST Technical Advisor informed attendees that additional changes will occur on item 2.6. "Drained Weight for Glazed or Frozen Foods." Seafood testing training was held in January 2010 in Topeka, Kansas, and has provided recommend changes to the L&R Committee for inclusion into HB133. Ms. Judy Cardin provided the Committee with a "Glazed Seafood Worksheet" and a "Glazed Seafood Package Report" to be added to Appendix E of HB 133. The NIST Technical Advisor will incorporate these changes into Appendices F and G in the 2010 Interim L& R Report.

The Committee recommends that the item under consideration be moved forward as a Voting item.

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

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 HB 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:

Specific Agricultural Seeds Labeled By Count	**The MAVs are:** **For corn seed: 2 % of the labeled count** **For soybean seed: 4 % of the labeled count** **For field bean seed: 5 % of the labeled count** **For wheat seed: 3 % of the labeled count**

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 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 ~~(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 MAVs.

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).

At the NCWM 2010 Interim Meeting, the Committee received numerous letters (refer to Appendix H) in support of this item. During the open hearing Ms. Maile Hermida, Hogan & Hartson, spoke on behalf of the seed trade association in support of this proposal to modify count. Farmers need information to know how to plant their fields, and there are devices available and calibrated. This practice is already used by states that adopt the Association of American Seed Analyst (AOSA) method as part of their current seed control law. The American Seed Trade

Association (ASTA) and AOSA are in agreement and support this item. Iowa also supports this proposal. Mr. Michael Stahr, President, AOSA supports this item, stating this is the current standard already in use in some states.

The Committee recommends this item under consideration move forward as a Voting item.

260-3 V 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).

Source: Western Weights and Measures Association

Purpose: Update HB 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.

At the NCWM 2010 Interim Meeting, the Committee heard comments for this item and Item 232-4 together at the open hearings. The Committee heard support on this item that the density factor should change from 0.92 g /cm³ to

0.95 g/cm³. A California official stated that the information provided by the Western was data extracted from Internet searches. Currently, manufacturers are complaining that under current practice they cannot compete fairly.

Mr. Mike Jackelen from Berry Plastics urges the Committee to reject this proposal. Mr. Jackelen stated that at 0.92 g/cm³ currently works for manufacturers and that changing it to 0.95 g/cm³ will cause undue cost and waste. Most manufacturers do not make high density (HD) bags, but are producing blends. Mr. Jackelen also stated an additional reason to reject the proposal is 0.95 g/cm³ bags if punctured will continue to tear.

A New York State official stated that if you use the term HD, then you are bound by the 0.95 g/cm³ density. If you use the length x width x thickness to determine the net weight, then it needs to be added on the package labeling. A California official stated that manufacturers should consider disclosing the density factor on every product as part of the labeling. It was voiced that if there are questions about an absolute 0.95 g/cm³ density then there should be an alternate.

A California official stated that 0.95 g/cm³ will be factored in when the density is not known. The Committee received letters that were reviewed on this item. The Committee recommends moving the item under consideration forward as a Voting item.

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)

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:

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

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 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,

0.0003 x [(12+7) x 22 x 2] x 0.95 x 0.03613 x 2000 = 17.216,

17.216 lbs x 0.107 (from Table 4.7(a) = 1.84 lbs,

17.216 lbs – 1.84 lbs = 15.37 lbs, the target net weight for the t-shirt bag container.

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

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 distributers 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.

At the NCWM 2010 Interim Meeting, a comment was heard from a State official that they recommend this item remain a Developing item and that a template test procedure similar to the procedure for checking the area measurement of chamois be incorporated. The Committee reviewed this item and felt that there was not enough information and data to support this proposal. The Committee would also like to see comments and recommendations from industry. The Committee is Withdrawing the proposed item under consideration and recommends that it be returned to the WWMA for further development and clarification.

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)

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 to 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 ft^3) 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 language 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 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 that 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 ft^3) 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 of this proposal and seeks additional information and comments.

At the 2010 NCWM Interim Meeting held in Nashville, Tennessee, the Committee heard testimony from Mr. Robert C. LaGasse, Executive Director of the Mulch and Soil Council. He did not support this item and encouraged the Committee to withdraw this item. Mr. LaGasse stated that there is currently no data on the decomposition of wood mulch (air flow/moisture content). He also stated it is not a common practice to require a pack date or expiration date on the packaging of wood mulch.

Mr. LaGasse did support the editorial change in HB133 "Table 3-4. Specifications for Test Measures for Mulch and Soils." A State official did not see the necessity of this proposal. The editorial changes mentioned during the open hearings are addressed under Item 260-1 as editorial changes. The Committee recommends that the item under consideration be Withdrawn.

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)

Source: Southern Weights and Measures Association (SWMA)

Purpose: Amend HB 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.

At the 2010 Interim Meeting, the Committee heard support for this item from industry and stakeholders. If this item is approved, it will also amend the Moisture Allowance Table in HB133 giving pasta a 3 % moisture allowance. The Committee reviewed the submitted study (NCWM 2010 Interim, L&R Appendix A – National Pasta Association Proposal to Establish a Moisture Allowance for Pasta Products). The Committee recommends moving the item under consideration forward as a Voting item.

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

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 Chairman 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.

At the 2010 NCWM Interim Meeting, the FALS Chairman, Mr. Ron Hayes, informed the Committee that FALS is still working on this project. No comments were heard during the open hearings, and the Committee agrees that this item should remain a Developing item.

If you would like to participate in this Subcommittee, contact Mr. Ron Hayes, Chairman 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

---

Mr. 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
Mr. David Sefcik, NIST Technical Advisor: e-mail: david.sefcik@nist.gov
Mr. Ken Butcher, NIST Technical Advisor: e-mail: kenneth.butcher@nist.gov

Laws and Regulations Committee

THIS PAGE INTENTIONALLY LEFT BLANK